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WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

WHEN: May 24, at 9:00 a.m.
WHERE: Office of the Federal Register, First Floor Conference Room, 1100 L Street NW., Washington, DC.
RESERVATIONS: 202–523–5240.

MINNEAPOLIS, MN

WHEN: June 18, at 1:00 p.m.
WHERE: Bishop Henry Whipple Federal Building, Room 570, Ft. Snelling, MN.
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KANSAS CITY, MO

WHEN: June 19, at 9:00 a.m.
WHERE: Federal Building, 601 East 12th Street, Room 110, Kansas City, MO.
RESERVATIONS: 1–800–735–8004

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Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

Rules and Regulations

Federal Register
Vol. 55, No. 92
Friday, May 11, 1990

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 717]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: Regulation 717 establishes the quantity of fresh California-Arizona lemons that may be shipped to market at 385,000 cartons during the period from May 13, 1990, through May 19, 1990. Such action is needed to balance the supply of fresh lemons with market demand for the period specified, due to the marketing situation confronting the lemon industry.

DATES: Regulation 717 (7 CFR part 910) is effective for the period from May 13, 1990, through May 19, 1990.

FOR FURTHER INFORMATION CONTACT: Beatriz Rodriguez, Marketing Specialist, Marketing Order Administration Branch, F&V, AMS, USDA, Room 2523, South Building, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 475-3861.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed by the Department in accordance with Departmental Regulation 1512-1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

The purpose of the RFA is to fit regulatory action to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Agricultural Marketing Agreement Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 70 handlers of lemons grown in California and Arizona subject to regulation under the lemon marketing order and approximately 2,500 producers in the regulated area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of handlers and producers of California-Arizona lemons may be classified as small entities.

This regulation is issued under Marketing Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Marketing Agreement Act (the "Act," 7 U.S.C. 601-674), as amended. This action is based upon the recommendation and information submited by the Lemon Administrative Committee (Committee) and upon other available information. It is found that this action will tend to effectuate the declared policy of the Act.

This regulation is consistent with the California-Arizona lemon marketing policy for 1989-90. The Committee met publicly on May 8, 1990, in Los Angeles, California, to consider the current and prospective conditions of supply and demand and unanimously recommended a quantity of lemons deemed advisable to be handled during the specified week. The Committee reports that demand for large-sized lemons (140's or larger) is good. However, some price discounting continues on small-sized lemons.

Pursuant to 5 U.S.C. 553, it is further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice and engage in further public procedure with respect to this action and that good cause exists for not postponing the effective date of this action until 30 days after publication in the Federal Register because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared purposes of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary, in order to effectuate the declared purposes of the Act, to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Lemons, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 910 is amended as follows:

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

1. The authority citation for 7 CFR part 910 continues to read as follows:

Authority: Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.

Note: This section will not appear in the Code of Federal Regulations.

2. Section 910.717 is added to read as follows:

§ 910.717 Lemon Regulation 717.

The quantity of lemons grown in California and Arizona which may be handled during the period from May 13, 1990, through May 19, 1990, is established at 385,000 cartons.

Dated: May 9, 1990.

Robert C. Keeney,
Deputy Director, Fruit and Vegetable Division.

[FR Doc. 90-11190 Filed 5-10-90; 8:45 am]
BILLING CODE 3410-02-M

7 CFR Part 920

[Docket No. FV-90-117]

Kiwifruit Grown in California; Relaxation of Minimum Net Weight Tolerance

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department is adopting as a final rule the provisions of an interim final rule (without change) which relaxes the minimum net weight tolerance for California kiwifruit packed in trays. This will enable handlers to have their fruit inspected under a relaxed minimum net weight requirement, which will assist handlers in providing an adequate supply of quality California kiwifruit during the remainder of the 1989–90 shipping season.

EFFECTIVE DATE: June 11, 1990.

FOR FURTHER INFORMATION CONTACT: Robert F. Matthews, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525–S, Washington, DC 20090–6456, telephone (202) 447–2431.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Marketing Order No. 920 (7 CFR Part 920), regulating the handling of kiwifruit grown in California. The marketing agreement and order are authorized by the Agricultural Marketing Agreement Act of 1937 as amended [7 U.S.C. 601–674], hereinafter referred to as the Act.

This rule has been reviewed by the Department in accordance with Departmental Regulation 1512–1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 145 handlers of California kiwifruit subject to regulation under the marketing order, and approximately 1,225 producers in the production area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual receipts less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of the handlers and producers of California kiwifruit may be classified as small entities.

An interim final rule was issued on February 13, 1990, and was published in the **Federal Register** of February 16, 1990 (55 FR 5568). The rule relaxed the minimum net weight tolerance for California kiwifruit packed in trays. The interim rule provided that interested persons could file written comments through March 19, 1990. No comments were received.

Under the terms of the marketing order, fresh market shipments of kiwifruit are subject to grade, size, maturity, pack and container requirements. The handling requirements for fresh California kiwifruit are specified in 7 CFR 920.302 (as amended at 53 FR 48513, December 1, 1988, and 54 FR 41436, October 10, 1989). Current requirements include the specifications that such shipments be at least Size 49 and contain a minimum of 6.5 percent soluble solids. Also included in the handling regulation are a minimum grade requirement and a number of pack and container requirements.

On October 10, 1989, kiwifruit packed in trays became subject to minimum net weight requirements for the first time. The established minimum net weights vary with the size of the fruit packed, with the smallest fruit subject to the lowest specified minimum net weight. For example, fruit of Size 44 or small packed in trays is required to weigh at least 6½ pounds per tray, and fruit of Size 34 and larger must weigh at least 7½ pounds. These net weight requirements were established to eliminate the wide variances that previously existed in the weight of fruit packed in trays and the resulting buyer dissatisfaction.

Originally, the weight requirements specified that at least 90 percent of the sample units taken from each lot must meet the applicable specified minimum net weight, but that no sample unit may be more than ¼ pound or 4 ounces less than that weight. This tolerance was provided to allow for variations that occur in kiwifruit packing operations, while maintaining the objective of standardizing the weight of fruit packed in trays.

The Kiwifruit Administrative Committee (committee) met on November 21, 1989, and unanimously recommended relaxing the minimum net weight tolerance for kiwifruit packed in trays for the remainder of the 1989–90 season.

Kiwifruit grown in California is typically harvested in late September or early October. The fruit is packed shortly after harvest and placed into storage until shipment. The shipping season generally extends through the following May.

About 55 percent of the harvested fruit is inspected as it is being packed prior to storage. In accordance with the inspection requirements established under the marketing order, the applicable inspection certificates are valid until January 15 or 21 days from the date of inspection, whichever is later. If a lot of kiwifruit is shipped after the applicable inspection certificate has become invalid, a second inspection is necessary. However, minimum net weight requirements apply only at the time of the initial inspection. Thus, kiwifruit inspected and meeting minimum net weight requirements at the time of packing need not be weighed again prior to shipment.

The 1989 California kiwifruit crop has now been harvested, packed and placed into storage. Handlers who chose to have their fruit inspected during packing experienced few problems meeting the newly established minimum net weight requirements. However, handlers who did not have their fruit inspected prior to storage expressed concerns that they may experience difficulties in meeting these requirements, particularly late in the shipping season.

While the majority of fruit is inspected prior to storage, some handlers have their fruit inspected after storage just prior to shipment. Because of potential weight changes during storage, such handlers are uncertain as to whether their packed fruit will be able to meet the newly established weight requirements.

Some information indicates that kiwifruit can gain weight in storage as starches convert to sugar. However, research also indicates that during storage kiwifruit can lose up to 3 percent of its weight due to moisture loss, depending upon a number of variables including storage conditions, the length of time in storage, the maturity of the fruit at harvest, and conditions during the growing season. If actual weight changes occur in the stored kiwifruit, in particular a weight reduction due to moisture loss, and such losses during the current season exceed those anticipated, the minimum net weight requirements could result in a significant volume of kiwifruit failing to meet the handling regulation and thereby being precluded from entering fresh market channels.

In determining how to reduce this risk, the committee considered a number of alternatives, including eliminating the minimum net weight requirements altogether. However, the committee deemed that such an action would be

contrary to the industry's objective of providing uniformly packed kiwifruit to the trade. Therefore, the committee recommended that the tolerance provided in the minimum net weight provisions be increased by 10 percent to 20 percent. The committee believes that this increased tolerance for underweight fruit will assist handlers in providing an adequate supply of quality California kiwifruit throughout the current shipping season, without allowing an excessive amount of variability in the weight of kiwifruit packed in trays.

The committee recommended that this additional tolerance be provided for the remainder of the 1989–90 shipping season only. While the committee continues to support a lower tolerance for underweight fruit, it also believes that the lack of information on fruit weight loss during storage justifies a relaxation at the present time. Experience during the current shipping season should provide additional data on this subject, which would be used by the committee in reevaluating the minimum net weight requirements well in advance of harvest of the 1990 crop.

Based on the above, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant matter presented, including the information and recommendations submitted by the committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 920

Kiwifruit, Marketing agreements.

PART 920—KIWIFRUIT GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 920 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

For the reasons set forth in the preamble, the interim final rule amending 7 CFR part 920 which was published at 55 FR 5568 on February 16, 1990, is adopted as a final rule without change.

Dated: May 7, 1990.

William J. Doyle,

Acting Deputy Director, Fruit and Vegetable Division.

[FR Doc. 90–11001 Filed 5–10–90; 8:45 am]

BILLING CODE 3410–02–M

7 CFR Part 979

[FV–90–123]

Melons Grown in South Texas; Final Rule To Establish an Interest Charge on Delinquent Assessments

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule establishes an interest charge on delinquent handler assessments. This action will encourage South Texas melon handlers to pay their assessments in a timely manner so that the South Texas Melon Committee would be assured that there are adequate funds available to cover expenses incurred under the marketing order.

EFFECTIVE DATE: May 11, 1990.

FOR FURTHER INFORMATION CONTACT: Robert F. Matthews, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525–S, Washington, DC 20090–6456, telephone (202) 447–2431.

SUPPLEMENTARY INFORMATION: This rule is effective under Marketing Agreement No. 156 and Marketing Order No. 979 (7 CFR Part 979), regulating the handling of melons grown in South Texas. The marketing agreement and order are authorized by the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

This rule has been reviewed by the Department in accordance with Departmental Regulation 1512–1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are 25 handlers of South Texas melons subject to regulation under the marketing order and 36 producers in the production area. The Small Business Administration (13 CFR 121.2) has defined small agricultural producers as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of handlers and producers of South Texas melons may be classified as small entities.

A proposed rule was published in the March 6, 1990, **Federal Register** (55 FR 7903), allowing interested persons until April 5, 1990, to file written comments. None were filed.

The South Texas Melon Committee (committee), which is responsible for local administration of the marketing order, met on November 7, 1989, and recommended that an interest charge be established for delinquent handler assessments. Under § 979.40 of the marketing order, the committee is authorized to incur expenses that are reasonable and necessary to operate the program. Section 979.42 provides that handlers be assessed on all assessable melons on a pro-rata basis to cover such costs. Further, § 979.42 authorizes the committee, with the approval of the Secretary, to establish an interest charge on assessments that are not paid within a time period prescribed by the committee.

The timely payment of assessments is important to the efficient functioning of the committee. The committee incurs expenses on a continuous basis and must be assured of a positive cash flow in order to meet its financial obligations, such as salaries and rent.

At its meeting on November 7, 1989, the committee recommended that handlers whose assessments become in arrears be subject to an interest charge of 18 percent per year or 1½ percent per month on the balance owed. In order to give handlers ample time to make payment before being subject to this charge, assessments will not be considered subject to interest charges until 30 days after billing by the committee office. Interest will begin to accrue immediately following this 30-day grace period.

Eighteen percent per year or one and one-half percent per month is deemed an appropriate rate of interest. It is high enough to encourage timely payment of assessment and is within the interest range customarily charged by banks on commercial accounts.

Therefore, a new § 979.112 is added to the rules and regulations under the South Texas melon Marketing Order which specifies that a late charge of 18 percent per year or 1½ percent per month will be charged on assessments

not received within 30 days after billing by the committee.

Based on the above, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant matters, including the information and recommendations submitted by the committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 979

Marketing agreements, Melon, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 979 is amended as follows:

PART 979—MELONS GROWN IN SOUTH TEXAS

1. The authority citation for 7 CFR part 979 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31 as amended; 7 U.S.C. 601–674.

2. Part 979 is amended by adding a new § 979.112 to read as follows:

Note: This section will be published in the Code of Federal Regulations.

§ 979.112 Late payments.

Pursuant to § 979.42(f), late payments of assessments shall be subject to an interest charge of 1½ percent per month on the balance due. Assessments shall be deemed late 30 days after the billing date.

Dated: May 7, 1990.

William J. Doyle,

Associate Deputy Director, Fruit and Vegetable Division.

[FR Doc. 90–11003 Filed 5–10–90; 8:45 am]

BILLING CODE 3410–02–M

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7 CFR Part 979

[Docket No. FV–90–110]

Melons Grown in South Texas; Amendment to Continuing Handling Regulation to Authorize a New Container

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule authorizes the use of a smaller corrugated carton for shipping South Texas cantaloupes to fresh markets on an experimental test shipment basis. Allowing handlers to ship cantaloupes in such containers will enable the South Texas Melon Committee to determine whether the use of this new carton is beneficial to the South Texas melon industry.

EFFECTIVE DATE: May 11, 1990.

FOR FURTHER INFORMATION CONTACT: Kenneth G. Johnson, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456, telephone (202) 447–5331.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 156 and Marketing Order No. 979 [7 CFR part 979], regulating the handling of melons grown in South Texas. The marketing agreement and order are authorized by the Agricultural Marketing Agreement Act of 1937, as amended [7 U.S.C. 601–674], hereinafter referred to as the Act.

This rule has been reviewed by the Department in accordance with Departmental Regulation 1512–1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are 25 handlers of South Texas melons subject to regulation under the marketing order, and 36 melon producers in the production area. The Small Business Administration [13 CFR 121.1] has defined small agricultural producers as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of handlers and producers of South Texas melons may be classified as small entities.

South Texas spring cantaloupe plantings are estimated at 15,000 acres, down 4 percent from 1989. Honeydew melon plantings in South Texas in 1990 are expected to total 6,000 acres, 8 percent less than in 1989. Preliminary data indicate spring cantaloupe plantings in 1990, as of March 12, 1990, total 9,603 acres, 30 percent below the comparable period in 1989. Honeydew melon plantings reported to date total 4,932 acres, 14 percent less than a year ago. Although melon plantings in the production area lag behind those in previous seasons, supplies of cantaloupes and honeydew melons shipped from the area during May through June are expected to be generally adequate for the prospective level of demand.

Handling requirements for South Texas melons are specified in § 979.304 [47 FR 13118, March 29, 1982; 54 FR 13507, April 4, 1989]. Current requirements specify that cantaloupes must meet at least U.S. Commercial grade, and that at least half of the honeydew melons in any lot must meet U.S. Commercial grade and contain at least eight percent sugar. Container sizes are also specified under the handling regulation. Cantaloupes must be packed in fiberboard cartons with inside dimensions of not more than 17¼ inches nor less than 16¾ inches long, not more than 13 inches nor less than 12¾ inches wide, and not more than 10⅜ inches nor less than 9¾ inches deep. Honeydew melons must be packed in fiberboard cartons with inside dimensions of 17 inches long by 15¼ inches wide and not more than 7½ inches nor less than 6½ inches deep. Honeydew melons may also be packed in bulk containers and, upon approval by the South Texas Melon Committee (committee), in pony cartons having dimensions of 17 inches long by 14½ inches wide by 5⅝ inches deep.

The committee, which is the agency responsible for local administration of the marketing order, unanimously recommended authorizing the use of a smaller carton for cantaloupes. This action is authorized by §§ 979.52 and 979.54 of the marketing order.

Specifically, the committee recommended authorizing the use of a corrugated carton with dimensions of 15$^{3}/_{16}$ inches long by 12⅞ inches wide by 10 inches deep for shipping cantaloups on an experimental basis. This carton is about an inch and a half shorter in length than currently authorized cartons and holds 15 to 20 percent less fruit by weight and about 12 percent less fruit by volume. The committee reports that this new container was designed by a group of California cantaloup shippers and is being used by some of those shippers on a test basis for the first time this season. The smaller container was designed so that more cartons can be placed on a standard 48- by 40-inch pallet, resulting in better space utilization and an improved stacking pattern. It is also

expected that the smaller carton will result in better arrivals at receiving points because the decreased volume of fruit per container should result in less damage to the packed cantaloups during transit.

The committee believes that South Texas handlers should also be able to test this carton and therefore recommended authorizing its use on an experimental basis. To enable the committee to determine the acceptability of the smaller carton, handlers are required to notify the committee of their intent to use the carton on an experimental basis by filing with the committee an application for a Certificate of Privilege. Subsequent to the committee's approval and issuance of a Certificate of Privilege, the handler is entitled to use the new carton. Additionally, the handler will be required to prepare a special purpose shipment report for each shipment of cantaloups in the smaller carton. Copies of the report are to be forwarded by the handler to the committee and to the receiver. The receiver will then sign a copy of the report and return it to the committee office. The information collected should enable the committee to determine whether the use of this new carton is beneficial to the South Texas melon industry as a whole.

The requirements for obtaining a Certificate of Privilege and filing reports are the same as those that apply to shipments of melons for relief, charity, canning or freezing. Unlike those special purpose shipments, however, cantaloups packed in the smaller container for experimental purposes will be required to meet the grade and inspection requirements specified in the handling regulation. This will ensure that only cantaloups of acceptable quality enter commercial fresh market channels.

The committee believes that this action will provide South Texas handlers with additional flexibility in marketing cantaloups. It will also enable the industry to remain competitive with other producing areas and have a positive impact, particularly if it is found that the use of this smaller carton is beneficial.

The information collection requirements contained in this final rule have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. chapter 35 and have been assigned OMB No. 0581-0079. The appropriate forms for reporting shipments for experimental purposes have been submitted previously to the OMB for approval and are currently approved by OMB to be used for information collection purposes.

A proposed rule was published in the March 7, 1990, **Federal Register** [55 FR 8146] and afforded interested persons until April 6, 1990, to submit written comments. No comments were received.

Based on the above, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant matter presented including the information and recommendation submitted by the committee, and other available information, it is hereby found that the rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

It is further found that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** [5 U.S.C. 553] in that the harvesting and shipping season for South Texas melons will begin soon and to be of maximum benefit to producers and handlers this rule should become effective as soon as possible.

List of Subjects in 7 CFR Part 979

Marketing agreements, Melons, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 979 is amended as follows:

PART 979—MELONS GROWN IN SOUTH TEXAS

1. The authority citation for 7 CFR part 979 continues to read as follows:

Authority: Secs. 1-19, 48 Stat. 31 as amended; 7 U.S.C. 601-674.

2. Section 979.304 is amended by redesignating paragraph (e)(4) as (e)(5), adding a new paragraph (e)(4) and revising the introductory text of paragraph (f) to read as follows:

Note: This section will appear in the annual *Code of Federal Regulations.*

§ 979.304 Handling regulation.

* * * * *

(e) * * *

(4) Shipments of cantaloups may be made for experimental purposes in cartons having dimensions of 15 9/16 inches in length by 12⅞ inches in width by 10 inches in depth. Such shipments shall be subject to the grade, inspection and reporting requirements set forth in paragraphs (a), (c) and (f) of this section.

* * * * *

(f) *Safeguards.* Each handler making shipments of melons for relief, charity, canning, freezing, or experimental purposes under paragraph (e) of this section shall:

* * * * *

Dated: May 7, 1990.

William J. Doyle,

Acting Deputy Director, Fruit and Vegetable Division.

[FR Doc. 90-11002 Filed 5-10-90; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 90-CE-01-AD; Amendment 39-6594]

Airworthiness Directives; Beech 33, 35, and 36 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to certain Beech 33, 35, and 36 Series airplanes, which requires inspections of the rudder forward spar for cracks. The FAA has received numerous reports of cracks in this structure. The actions specified in this AD will prevent the rudder hinge brackets from separating from the rudder forward spar and the resultant loss of the rudder and control of the airplane.

EFFECTIVE DATE: June 12, 1990.

Compliance: As prescribed in the body of the AD.

ADDRESSES: Beech Service Bulletin No. 2333, dated October 1989, applicable to this AD, may be obtained from the Beech Aircraft Corporation, Commercial Service, Department 52, P.O. Box 85, Wichita, Kansas 67201-0085; or may be examined at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Larry Engler, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, room 100, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 946-4409.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an AD requiring inspections of the rudder forward spar for cracks on certain Beech 33, 35, and 36 Series airplanes was published in the **Federal Register** on January 30, 1990 (55 FR 3066). The proposal was prompted by at least eight

reports of cracks at the hinge bracket attachments in the rudder forward spar on these airplanes. On one airplane, the top rudder hinge bracket broke out a portion of the rudder spar web. The probable cause of the cracks in the spar is fatigue around the holes drilled to install nutplates. As a result, Beech issued Service Bulletin 2333, dated October 1989, specifying inspection procedures to detect any cracks in the rudder forward spar and replacement provisions if cracks are found. New production airplanes incorporate a new design rudder assembly, part numbers 33–630000–137, –139, or –141 which are not subject to the problem addressed in this AD. The new design rudder assemble will also be made available for field retrofit on existing airplanes. Since the condition described is likely to exist or develop in other airplanes of the same design, an AD was proposed to require compliance with Beech Service Bulletin No. 2333.

Interested persons have been afforded an opportunity to comment on the proposal. No comments or objections were received on the proposal or the FAA determination of the related cost to the public. Accordingly, the proposal is adopted without change.

The FAA has determined that this regulation involves approximately 5900 airplanes at an estimated inspection labor cost of $80 for each airplane. The total cost is estimated to be $472,000. The cost of this inspection will not have a significant economic effect on any small entities operating these airplanes.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Therefore, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

A copy of the final evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "**ADDRESSES**".

List of Subjects in 14 CFR 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new AD:

Beech: Applies to the following airplanes certificated in any category:

Models	Serial numbers
35–33, 35–A33, 35–B33, 35–C33, E33, F33, G33	CD–1 through CD–1304.
35–C33A, E33A, F33A	CE–1 through CE–1425.
E33C, F33C	CJ–1 through CJ–179.
36, A36	E–1 through E–2518.
A36TC, B36TC	EA–1 through EA–500.

Compliance: Required as indicated in the body of the AD, unless already accomplished.

To prevent the possible separation of the rudder and loss of control due to cracking of the forward spar, accomplish the following:

(a) Within the next 100 hours time-in-service (TIS) after the effective date of this AD, or upon accumulating 1000 hours TIS, whichever occurs later, and thereafter at intervals not to exceed 500 hours TIS, inspect the rudder forward spar for cracks in accordance with Beech Service Bulletin Number 2333, dated October 1989.

(b) If cracks are found, prior to further flight replace the rudder forward spar part number 33–630000–115, –99, –113, or –17, as applicable, in accordance with the above Service Bulletin.

(c) If a new rudder forward spar is installed per paragraph (b) of this AD, inspect the rudder forward spar for cracks in accordance with the above Service Bulletin within the next 1000 hours TIS from the time of installation of the new rudder forward spar, and reinspect for cracks thereafter at 500 hours TIS intervals. If cracks are detected during any of these inspections, prior to further flight replace the rudder forward spar in accordance with the above Service Bulletin, and continue with the repetitive inspections described in this paragraph.

(d) The repetitive inspections required by this AD may be discontinued upon installation of a new rudder assembly, part number 33–630000–137, –139, –141, or –167, as applicable.

(e) Airplanes may be flown in accordance with FAR 21.197 to a location where the AD may be accomplished.

(f) An alternate method of compliance or adjustment of the initial or repetitive compliance times, which provides an equivalent level of safety may be approved by the Manager, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, room 100, Wichita, Kansas 67209; Telephone (316) 946–4400.

Note: The request should be forwarded through an FAA Maintenance Inspector, who may add comments and send it to the Manager, Wichita Aircraft Certification Office. All persons affected by this directive may obtain copies of the document referred to herein upon request to the Beech Aircraft Corporation, Commercial Service, Department 52, P. O. Box 85, Wichita, Kansas 67201–0085; or may examine this document at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

This amendment becomes effective on June 12, 1990.

Issued in Kansas City, Missouri, on April 27, 1990.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90–11010 Filed 5–10–90; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Docket No. 90–NM–54–AD; Amdt. 39–6599]

Airworthiness Directives; Cessna Citation Model 550, 551, and S550 Series Airplanes, Equipped with Supplemental Type Certificate (STC) SA2698SW Freon Air Conditioners

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revises, publishes in the **Federal Register**, and makes effective as to all persons, an amendment adopting a new airworthiness directive (AD) 90–07–10, which was previously made effective as to all known U.S. owners and operators of Cessna Citation Model 500, 501, 550, 551, and S550 series airplanes, equipped with STC SA2698SW Freon Air Conditioners, by individual letters. This AD requires deactivation of the air conditioning system; a visual inspection to detect damage to the elevator and rudder control cables, and replacement, if necessary; and replacement of mounting hardware on the inboard mounting rail and of the existing ground wire on the air-conditioning unit. This action is prompted by a report of an electrical arc from a mounting screw for a Freon Air Conditioner installed in

accordance with STC SA2698SW. This condition, if not corrected, could result in the loss of primary elevator or rudder control during flight. This amendment revises the previously issued Priority Letter AD by deleting two Cessna Citation Models: 500 and 501.

EFFECTIVE DATE: May 29, 1990.

Portions of this AD were effective earlier to those recipients of Priority Letter AD 90-07-10, dated March 29, 1990.

ADDRESSES: The applicable service information may be obtained from Keith Products, Inc., 4554 Claire Chennault, Dallas, Texas 75248. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or at the FAA, Southwest Region, Special Programs Office, 4400 Blue Mount Road, Fort Worth, Texas.

FOR FURTHER INFORMATION CONTACT: Mr. Joe L. Condo, Special Programs Office, ASW-190; telephone (817) 624-5193. Mailing address: FAA, Southwest Region, Fort Worth, Texas 76193-0190.

SUPPLEMENTARY INFORMATION: On March 29, 1990, the FAA issued priority Letter AD 90-07-10, applicable to Cessna Citation Model 500, 501, 550, 551, and S550 series airplanes, equipped with Supplemental Type Certificate (STC) SA2698SW Freon Air Conditioners, which requires deactivation of the air conditioning system; a visual inspection to detect damage to the elevator and rudder control cables, and replacement, if necessary; and replacement of mounting hardware on the inboard mounting rail and of the existing ground wire on the air-conditioning unit. That action was prompted by a report of an electrical arc from a mounting screw for a Freon Air Conditioner installed in accordance with STC SA2698SW. The electrical arc burned through the elevator control cable. This air conditioner is installed in the aft floor section of the baggage compartment. This condition, if not corrected, could result in the loss of primary elevator or rudder control during flight.

The FAA has reviewed and approved Keith Products, Inc. Service Bulletin No. 108, dated March 26, 1990, which describes procedures for replacement of mounting hardware on the inboard mounting rail and of the existing ground wire on the air conditioning unit.

Since this condition is likely to exist or develop on other airplanes of this same type design with STC SA2698SW Freon Air Conditioner systems, this AD requires deactivation of the air conditioning system; a visual inspection to detect damage to the elevator and rudder control cables, and replacement, if necessary; and replacement of mounting hardware on the inboard mounting rail and of the existing ground wire on the air conditioning unit.

Since it was found that immediate corrective action was required, notice and public procedure thereon were impracticable and contrary to the public interest, and good cause existed to make the AD effective immediately by individual letters issued on March 29, 1990, to all known U.S. owners and operators of Cessna Citation Model 500, 501, 550, 551, and S550 series airplanes, equipped with Supplemental Type Certificate (STC) SA2698SW Freon Air Conditioners. These conditions still exist, and the AD is hereby published in the **Federal Register** as an amendment to § 39.13 of part 39 of the Federal Aviation Regulations (FAR) to make it effective as to all persons.

Since the issuance of the priority letter, it was determined that this AD does not apply to the Cessna Citation Models 500 and 501 since the air conditioning unit is not installed in the baggage compartment on these models. The air conditioning unit is installed in a different equipment bay which is not in close proximity to the elevator control cables. For this reason the Cessna Citation Models 500 and 501 have been deleted from the applicability statement.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The Federal Aviation Administration has determined that this regulation is an emergency regulation and that it is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, if filed, may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by revising Priority Letter AD 90-07-10, issued March 29, 1990:

Cessna Citation: Applicable to Model 550, 551, and S550 series airplanes, equipped with STC AS2698SW Freon Air Conditioners installed in the aft section of the baggage compartment, certificated in any category. Compliance is required as indicated, unless already accomplished.

To prevent failure of the elevator or rudder control cables, accomplish the following:

A. Prior to further flight, deactivate the air conditioning system by pulling the air conditioner supply breakers on the main junction box and install tie wraps on the breakers.

B. Within the next 10 hours time-in-service, perform a visual inspection of the elevator control cables under and in the vicinity of the aft baggage compartment floor for evidence of damage caused by electrical arcing and interference.

1. Replace any damaged cable prior to further flight.

2. If fasteners used to secure the compressor condenser unit mounting rails to the baggage floor interfere with the control cables, replace mounting hardware, prior to further flight, in accordance with Keith Service Bulletin No. 108, dated March 26, 1990.

C. Prior to reactivating the air conditioning system, place mounting hardware on the inboard mounting rail and replace existing ground wire, in accordance with Keith Service Bulletin No. 108, dated March 26, 1990.

D. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Special Programs Office, ASW-190, FAA, Southwest Region.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who will either concur or comment, and then send it to the Manager, Special Programs Office, ASW-190.

E. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer, may obtain copies upon request to Keith Products, Inc., 4554 Claire Chennault, Dallas, Texas 75248. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or at the FAA, Southwest Region, Special Programs Office, 4400 Blue Mound Road, Forth Worth, Texas.

This amendment supersedes Priority Letter AD 90-07-10, issued March 29, 1990.

This amendment becomes effective May 29, 1990. Portions of this amendment were effective earlier to all recipients of Priority Letter AD 90-07-10, dated March 29, 1990.

Issued in Seattle, Washington, on May 1, 1990.

Leroy A. Keith,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90-11009 Filed 5-10-90; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 73

[Airspace Docket No. 90-AWP-1]

Alteration of Restricted Areas R-2516 and R-2517 Naval Missile Facility Point Arguello, CA, and R-2434B Point Arguello, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies the common boundaries between Restricted Areas R-2516 and R-2517 Naval Missile Facility Point Arguello, CA. This change is necessary to facilitate use of a new Pacific Route. In addition, a minor amendment to the boundaries of Restricted Area R-2534B Point Arguello, CA, is made to ensure that points common to the restricted areas coincide.

EFFECTIVE DATE: 0901 U.t.c., June 28, 1990.

FOR FURTHER INFORMATION CONTACT: Linda Ullom, Military Operations (ATM-400), Office of Air Traffic System Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-7683.

The Rule

This amendment to part 73 of the Federal Aviation Regulations modifies the common boundaries between R-2516 and R-2517. The modification resulted from negotiations between the Federal Aviation Administration (FAA) and the Department of Defense (DOD) to develop a new Pacific Route designed to reduce delays and congestion points between the San Francisco Bay area and the Los Angeles Basin. This routing provides an additional southbound route to be used primarily by aircraft destined for Orange/Long Beach Airports. The boundary modification and FAA/DOD agreements will facilitate the routing of air traffic across R-2516. Concurrent with this action, the boundary of R-2534B is amended to ensure that points common to the restricted areas remain coincident. These changes are completely contained within existing restricted airspace. No additional restricted airspace is created by this action. Further, this action lessens the burden on the public by enhancing the flow of air traffic in the area. Therefore, I find that notice and public procedure under 5 U.S.C. 553(b) are unnecessary because this action is a minor technical amendment in which the public would not be particularly interested. Section 73.25 of part 73 of the Federal Aviation Regulations was republished in Handbook 7400.6F dated January 2, 1990.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 73

Aviation safety, Restricted areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 73 of the Federal Aviation Regulations (14 CFR part 73) is amended, as follows:

PART 73—SPECIAL USE AIRSPACE

1. The authority citation for part 73 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510, 1522; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§73.25 [Amended]

2. Section 73.25 is amended as follows:

R-2516 Naval Missile Facility Point Arguello, CA [Amended]

By removing the existing boundaries and substituting the following:

Boundaries. Beginning at lat. 35°00'00" N., long. 120°42'00" W.; to lat. 34°54'00" N., long. 120°33'00" W.; to lat. 34°50'00" N., long. 120°32'00" W.; to lat. 34°46'00" N., long. 120°27'00" W.; to lat. 34°42'00" N., long. 120°30'00" W.; to lat. 34°38'35" N., long. 120°31'20" W.; to lat. 34°42'00" N., long. 120°34'30" W.; to lat. 34°42'00" N., long. 120°40'18" W.; thence 3 NM from and parallel to the shoreline to the point of beginning.

R-2517 Naval Missile Facility Point Arguello, CA [Amended]

By removing the existing boundaries and substituting the following:

Boundaries. Beginning at lat. 34°42'00" N., long. 120°40'18" W.; to lat. 34°42'00" N., long. 120°34'30" W.; to lat. 34°38'35" N., long. 120°31'20" W.; to lat. 34°35'00" N., long. 120°32'00" W.; to lat. 34°25'00" N., long. 120°27'00" W.; to lat. 34°24'00" N., long. 120°30'00" W.; thence 3 NM from and parallel to the shoreline to the point of beginning.

R-2534B Point Arguello, CA [Amended]

By removing the existing boundaries and substituting the following:

Boundaries. Beginning at lat. 34°38'35" N., long. 120°31'20" W.; to lat. 34°24'40" N., long. 120°19'10" W.; to lat. 34°25'00" N., long. 120°27'00" W.; to lat. 34°35'00" N., long. 120°32'00" W.; to the point of beginning.

Issued in Washington, DC., on May 4, 1990.

Harold W. Becker,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 90-11011 Filed 5-10-90; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Part 799

[Docket No. 900121-0103]

Foreign Policy Controls on ECCN 1564A; Correction

AGENCY: Bureau of Export Administration Commerce.

ACTION: Interim rule; correction.

SUMMARY: This rule amends (Advisory) Note 5 for ECCN 1564A in the Commodity Control List (Supplement No. 1 to §799.1 of the Export Administration Regulations (EAR)) to specify that certain analog-to-digital

converters controlled by ECCN 1564A are ineligible for General License GFW.

These analog-to-digital converters continue to be subject to U.S. foreign policy controls designed to limit the proliferation of nuclear weapons delivery systems as described in § 776.18 of the EAR. The February 27, 1990 (55 FR 6791), interim rule that expanded the range of items eligible for General License GFW inadvertently failed to note that foreign policy based licensing requirements continue to apply to such analog-to-digital converters.

This rule corrects that oversight by amending (Advisory) Note 5 for ECCN 1564A to specify that analog-to-digital converters not excluded from control by paragraph (d)(2)(D)(m)(1) are ineligible for export under General License GFW.

EFFECTIVE DATE: This rule is effective February 27, 1990.

FOR FURTHER INFORMATION CONTACT: Willard Fisher, Regulations Branch, Bureau of Export Administration, Telephone: (202) 377-3856.

SUPPLEMENTARY INFORMATION:

Omission in the *Reason for Control* Paragraph for ECCN 1564A

Exporters should note that there is an omission in the *Reason for Control* paragraph for ECCN 1564A, as printed in the October 1989 edition of the "U.S. Export Administration Regulations". The *Reason for Control* paragraph should contain a reference to the foreign policy controls on analog-to-digital converters. A future "Export Administration Bulletin" will correct this error. The *Reason for Control* paragraph for ECCN 1564A that appears in Title 15 of the Code of Federal Regulations correctly reflects these foreign policy controls.

Rulemaking Requirements

1. This rule complies with Executive Order 12291 and Executive Order 12661.

2. This rule involves a collection of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). This collection has been approved by the Office of Management and Budget under control number 0694-0005.

3. This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

4. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by section 553 of the Administrative Procedure Act (5 U.S.C. 553), or by any other law, under sections 603(a) and 604(a)) of the Regulatory Flexibility Act (5 U.S.C. 603(a) and 604(a)) no initial or final Regulatory Flexibility Analysis has to be or will be prepared.

5. Section 13(a) of the Export Administration Act of 1979, as amended (EAA) (50 U.S.C. app. 2412(a)), exempts this rule from all requirements of section 553 of the Administrative Procedure Act (APA) (5 U.S.C. 553), including those requiring publication of a notice of proposed rulemaking, an opportunity for public comment, and a delay in effective date. This rule is also exempt from these APA requirements because it involves a foreign and military affairs function of the United States. Section 13(b) of the EAA does not require that this rule be published in proposed form because this rule does not impose a new control. Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule.

Therefore, this regulation is issued in interim form. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis. Comments should be submitted to Willard Fisher, Office of Technology and Policy Analysis, Bureau of Export Administration, Department of Commerce, P.O. Box 273, Washington, DC 20044.

List of Subjects in 15 CFR Part 799

Exports, Reporting and recordkeeping requirements.

Accordingly, part 799 of the Export Administration Regulations (15 CFR Parts 730-799) is amended as follows:

1. The authority citation for 15 CFR part 799 continues to read as follows:

Authority: Pub. L. 96-72, 93 Stat. 503 (50 U.S.C. app. 2401 *et seq.*), as amended by Pub. L. 97-145 of December 29, 1981, by Pub. L. 99-64 of July 12, 1985, and by Pub. L. 100-418 of August 23, 1988; E.O. 12525 of July 12, 1985 (50 FR 28757, July 16, 1985); Pub. L. 95-223 of December 28, 1977 (50 U.S.C. 1701 *et seq.*); E.O. 12532 of September 9, 1985 (50 FR 36861, September 10, 1985) as affected by notice of September 4, 1986 (51 FR 31925, September 8, 1986); Pub. L. 99-440 of October 2, 1986 (22 U.S.C. 5001 *et seq.*); and E.O. 12571 of October 27, 1986 (51 FR 39505, October 29, 1986).

PART 799—[AMENDED]

Supplement No. 1 to 799.1 [Amended]

2. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1564A is amended by adding the phrase "(NOT ELIGIBLE FOR GENERAL LICENSE GFW: Analog-to-digital converters *not* excluded from control under this ECCN by paragraph (d)(2)(D)(m)(1).)" immediately before the phrase "Licenses are likely to be approved" in (Advisory) Note 5.

Dated: May 4, 1990.

James M. LeMunyon,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 90-10983 Filed 5-10-90; 8:45 am]

BILLING CODE 3510-DT-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

Fees for Registered Futures Association and Exchange Rule Enforcement and Financial Reviews

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule and final schedule of fees.

SUMMARY: The Commission recently proposed a revision to its method of calculating annual fees for rule enforcement, sales practice and financial reviews of exchanges and registered futures association. 55 FR 5023. The Commission is now adopting the proposed formula and 1990 fee schedule in final form as proposed. The fees will be set at 100% of the actual average cost of reviewing each exchange over a three-year period. In addition, the Commission will assess the National Futures Association (NFA) a rule enforcement and financial review fee to recover its costs associated with oversight and rule enforcement reviews of the NFA.

EFFECTIVE DATE: July 10, 1990.

FOR FURTHER INFORMATION CONTACT: Gerry Smith, Special Assistant to the Executive Director, Office of the Executive Director, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581, telephone number 202-254-6090.

SUPPLEMENTARY INFORMATION: The Futures Trading Act of 1982 (Pub. L. 97-444, 96 Stat. 2294, 2326, January 11, 1983) amended section 26 of the Futures Trading Act of 1978 (7 U.S.C. 16a) to add specific authority for the Commission

to promulgate, after notice and opportunity for hearing, a schedule of appropriate fees to be charged for services rendered and activities and functions performed by the Commission in conjunction with its administration and enforcement of the Commodity Exchange Act: *Provided*, That the fees for any specified service or activity or function shall not exceed the actual cost thereof to the Commission.

The Conference Report accompanying the legislation (H.R. Rep. No. 964, 97th

Cong. 2d Sess. 57 (1982)) states that "the conferees intend that the fee schedule addressed by the Conference substitute be strictly limited to Commission activities directly related to" eight enumerated Commission functions including "contract market and registered futures association rule enforcement reviews and financial reviews".

On December 4, 1987, the Commission published a final rule which provides that the annual fee for rule enforcement and financial reviews for each exchange shall be calculated by computing the average annual cost of reviewing that exchange over the preceding three fiscal years, then multiplying that amount by 65% and rounding to the nearest multiple of $100. (See 52 FR 46070). On February 13, 1990, the Commission proposed to change the formula to allow the United States Government to recover the full costs of performing rule enforcement and financial reviews of the exchanges. (See 55 FR 5023). At that time the Commission also proposed that the National Futures Association should be charged for oversight and financial rule enforcement reviews performed by the Commission. (See 55 FR 5023).

The Commission has not previously assessed the National Futures Association such a fee. However, NFA has now assumed a number of programs and has had the opportunity to develop rules and procedures to implement these programs. As the NFA has increased its activity in these areas, the Commission has also increased its oversight and rule enforcement review activity of NFA in this regard. The Commission therefore proposed to assess the same fee at the same rate to NFA as it assesses to other self-regulatory organizations; however, in the first year (1990), the Commission proposed to assess NFA at 50% of the actual three year average costs, 75% the second year (1991) and 100% in 1992 and subsequent years.

The new method of assessing fees was proposed to assure that all exchanges and the NFA bear the actual costs to the government of performing rule enforcement and financial reviews.

The Commission received five comment letters on these proposed changes, four from exchanges and one from the NFA. One of the commenters supported the proposed fee structure. The other four objected to various portions of the proposal. These comments are addressed below.

One exchange did not object to the proposed fees but did state that in the event that legislation is enacted that authorizes the Federal Government to charge user fees, any amount charged under this rule should be counted in full toward any user fee assessment that may be levied for fiscal year 1990 and beyond. The NFA objected to the fee structure and also stated that if user fee proposals are enacted the Commission should reconsider its practice of charging fees. In this regard, should user fee legislation be enacted, the Commission wishes to make clear that it will review its current fee structure to determine what changes, if any, are warranted.

A second exchange generally opposed the Commission's proposal. This commenter and a third exchange expressed the view that, because of their small size compared to other exchanges on the basis of trading volume, they believed they were being assessed a disproportionately large fee. The second exchange also suggested that the Commission reevaluate its allocation of resources to performing these reviews at the smaller exchanges. The third exchange suggested that exchanges should be given a voice in determining what constitutes cost-effective delivery of services in this area by the CFTC. However, there is not a direct correlation between an exchange's volume of trading and the amount of rule enforcement and financial review fees charged to that exchange. The Commission has a responsibility to review each exchange's programs on an on-going basis to insure that they are being carried out in an effective manner. The Commission conducts regular reviews of exchanges and publishes the findings of all reviews once they are completed. In this regard, the Commodity Exchange Act ("CEA") requires all contract markets to have basic rules and self regulatory programs irrespective of volume of trading. As a result, the CFTC has a certain base-line amount of work it must perform to monitor enforcement of those rules, regardless of the volume of trading taking place on the floor of the exchange.

The third exchange also recommended that the Commission withdraw its proposal until Congress acts on the President's proposed user fee proposal. The Commission has determined that there is no reason to withdraw this proposal and as noted above, the Commission will review these fees in the event that the user fee proposals are enacted.

The fourth exchange suggested that a longer period of time be used in calculating the three-year average, or a different formula be used when a new system or procedure required by the Commission, such as enhanced audit trail requirements, is introduced. After review, the Commission has decided to retain the three-year average at this time. Also, the Commission does not believe that a requirement that increases the efficiency of exchanges should be dealt with by a separate formula and the commenter has not provided any persuasive reasons for so treating new requirements.

The fourth exchange also expressed concern that there is no limit on fees. However, the Commission's amount of fees is already limited by statute to no more than the actual costs of performing the service. The same commenter stated that consideration should be given to the effect the increased fees will have on the cost of doing business on U.S. exchanges. The Commission, however, does not believe that the change in the method of calculating rule enforcement review fees will have a significant detrimental impact in this area. There is no evidence that fees have an effect on the volume of trading. Since NFA fees and CFTC service fees were imposed in 1983, the volume of futures and option trading on U.S. exchanges has increased by over 225%.

The fourth exchange also suggested that the change from 65% to 100% be phased in for the exchanges and that the details of how the fees were derived be made available to them. The Commission does not believe that phasing in the change from 65% to 100% is necessary. Also, information concerning the amount spent performing these reviews and the office performing them is available from the Commission's Office of the Executive Director.

The NFA suggested that since there is only one registered futures association, the NFA, and since it is a pure self-regulator which actually saves tax dollars, it is inappropriate to charge them the full cost incurred by the Commission in overseeing their activities. NFA also stated that no fee should be charged by the Commission for the review of registration functions and that the NFA and the exchanges should be provided with an opportunity to challenge the efficiency of the Commission's reviews for the purpose of objecting to the inclusion of costs arising from potential inefficiency. The NFA, like the other self-regulatory organizations, is required to develop and enforce rules. The Commission believes that it is appropriate for it to recover its costs of performing reviews of any self-regulatory organization. The Commission also believes that the costs for performing reviews of the registration program which was delegated to NFA should be recovered. Also, the Commission is always open to discussions with self-regulatory

organizations concerning alleged inefficiencies of performing these reviews.

The Commission has therefore determined to adopt the rule amendment as proposed. The computation of the FY 1990 fee under the revised rule follows.

I. Computation of Fees

In accordance with the Futures Trading Act of 1982 (7 U.S.C. 16a), the Commission has established fees for certain activities and functions performed by the Commission.[1] In calculating the actual cost of conducting rule enforcement and financial reviews the Commission takes into account personnel costs, benefits and administrative costs.

The Commission first determines personnel costs by extracting data from the agency's Budget Account Code (BAC) system. Employees of the Commission record the time spent on each project under the BAC system. The Commission then adds an overhead factor for benefits, including retirement, insurance and leave, based on a government-wide standard established by the Office of Management and Budget in Circular A-76. An overhead factor is also added for general and administrative costs, such as space, equipment and utilities. These general and administrative costs are derived by computing the percentage of Commission appropriations spent on these non-personnel items. The overhead calculations fluctuate slightly due to changes in government-wide benefits and in the percentage of Commission appropriations applied to non-personnel costs from year to year. The actual overhead factors for the preceding fiscal years is as follows: FY 1987—101%; FY 1988—100%; FY 1989—100%.

Once the total personnel costs and overhead for each project have been determined, the costs for FY 1987, FY 1988 and FY 1989 are averaged. This results in a calculation of the average annual cost for each project over the three-year period, which is the basis for the fee. Under the revised rule, the FY 1990 fee for Registered Futures Association and Exchange Rule Enforcement and Financial Reviews is as follows:

[1] For a broader discussion of the history of Commission fees, see 52 FR 46070 (Dec. 4, 1987).

Exchange	Actual average costs FY 1987–FY 1989	FY 1990 fee
Chicago Board of Trade	$238,539	$238,539
Chicago Mercantile Exchange	232,381	232,381
Commodity Exchange, Inc	106,186	106,186
Coffee, Sugar & Cocoa Exchange	102,743	102,743
New York Mercantile Exchange	91,747	91,747
New York Cotton Exchange	62,859	62,859
Kansas City Board of Trade	46,492	46,492
New York Futures Exchange	59,293	59,293
Minneapolis Grain Exchange	48,263	48,263
Philadelphia Board of Trade	5,620	5,620
Amex Commodities Corp	43	43
National Futures Association	306,621	153,311
Total	1,300,767	1,147,477

As in the calculation of the FY 1988 and FY 1989 fees, the FY 1990 fee for the Chicago Board of Trade includes the fees for the MidAmerica Commodity Exchange and the Chicago Rice and Cotton Exchange.

II. Regulatory Flexibility Act

The fees implemented in this release affect contract markets (also referred to as "exchanges") and registered futures associations. The Commission has previously determined that contract markets are not "small entities" for purposes of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, 47 FR 18618 (April 30, 1982). Registered futures associations also are not considered "small entities" by the Commission. Therefore, the requirements of the Regulatory Flexibility Act do not apply to contract markets or registered futures associations. Accordingly, the Chairman, on behalf of the Commission, certifies that the fees implemented herein do not have a significant economic impact on a substantial number of small entities.

Issued in Washington, DC, on May 7, 1990, by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 90-110503 Filed 5-10-90; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 926

Montana Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule; approval of amendments.

SUMMARY: OSM is announcing the approval of proposed amendments submitted by the State of Montana as a modification to its permanent regulatory program (the Montana program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendments to the Montana program at title 26, chapter 4 (26.4), subchapters 3 through 13 of the Administrative Rules of Montana (ARM), known as the Strip and Underground Mine Reclamation Rules and Regulations, consist of revisions which are intended to make the State rules consistent with the corresponding Federal regulations and improve the clarity of the Montana rules without changing their effect.

EFFECTIVE DATE: May 11, 1990.

FOR FURTHER INFORMATION CONTACT: Jerry R. Ennis, Director, Office of Surface Mining Reclamation and Enforcement, Casper Field Office, Federal Building, 100 East B Street, Room 2128, Casper, Wyoming 82601-1918; Telephone (307) 261-5776.

SUPPLEMENTARY INFORMATION:

I. Background on the Montana Program

On April 1, 1980, the Secretary of the Interior conditionally approved the Montana program. General background information on the Montana program, including the Secretary's findings, the disposition of comments, and conditions of approval of the Montana program can be found in the April 1, 1980, Federal Register (45 FR 21560). Subsequent actions taken with regard to Montana's program and program amendments can be found at 30 CFR 926.15 and 926.16.

II. Submission of Amendment

In accordance with the provisions of 30 CFR 732.17 (d) through (f), the Director notified Montana by letters dated July 2, 1985, June 9, 1987, and November 21, 1988 (Administrative Record Nos. MT-5-44, MT-5-45, and MT-5-46) of changes necessary to maintain its program in a form no less stringent than SMCRA and no less effective than the implementing Federal regulations. To comply with these letters and to improve the clarity of the Montana rules without changing their effect, the State elected to undertake a major revision of the rules governing its permanent regulatory program.

By letter dated December 21, 1988 Montana submitted these regulations to OSM for review as a program amendment (Administrative Record No. MT-5-1). Montana proposed revisions to the following rules: definitions and strip mine permit application requirements, ARM 26.4 subchapter 3; mine permit and test pit prospecting permit procedures, ARM 26.4 subchapter 4; back filling and grading requirements, ARM 26.4 subchapter 5; transportation facilities, explosives and hydrology, ARM 26.4 subchapter 6; topsoiling, revegetation, and protection of wildlife and air resources, ARM 26.4 subchapter 7; alluvial valley floors, prime farmlands, alternate reclamation, and auger mining, ARM 26.4 subchapter 8; underground coal and uranium mining, ARM 26.4 subchapter 9; prospecting, ARM 26.4 subchapter 10; bonding, insurance, reporting, and special areas, ARM 26.4 subchapter 11; special departmental procedures, ARM 26.4 subchapter 12; and miscellaneous provisions, ARM 26.4 subchapter 13.

The Director announced receipt of this proposed amendment in the January 9, 1989 **Federal Register** (54 FR 632), and in the same notice, opened the public comment period and provided opportunity for a public hearing on its substantive adequacy (Administrative Record No. MT-5-16). The public comment period closed on February 8, 1989. The public hearing scheduled for January 24, 1989 was not held because no one requested an opportunity to testify.

By letter dated March 20, 1989 (Administrative Record No. MT-5-15) OSM notified Montana of certain areas (the definition of "cumulative impact area"; application requirements with respect to mineral ownership and cultural, historic and archeological resources; application review requirements with respect to cultural resources; blasting schedule requirement; requirements for certification of impoundments; removal of sediment structures; requirements to comply with the poisonous and noxious plant laws; general revegetation requirements; repair of rills and gullies as a normal husbandry practice; revegetation success standards; revegetation standards for trees, shrubs and half shrubs; requirements for protection of parks and historic sites; and remining requirements) of the proposed amendment which required clarification or appeared to be less effective than the revised Federal regulations. By letter dated April 27, 1989 (Administrative Record No. MT-5-19) Montana submitted additional proposed regulatory changes and policy statements designed to address all OSM concerns. OSM announced receipt of these materials in the May 17, 1989 **Federal Register** (54 FR 21228) and, in the same notice, reopened the public comment period until June 1, 1989 (Administrative Record No. MT-5-25).

By letter of May 17, 1989 (Administrative Record No. MT-5-24) OSM notified Montana of two areas (repair of rills and gullies as a normal husbandry practice and requirements for protection of archeological resources) in which the proposed amendment continued to be less effective than the Federal regulations. By letter dated June 1, 1989 (Administrative Record No. MT-5-30) Montana submitted additional proposed regulatory changes and policy statements designed to address the two OSM concerns. OSM announced receipt of these materials in the June 23, 1989 **Federal Register** (54 FR 26396) and, in the same notice, reopened the public comment period until July 10, 1989 (Administrative Record No. MT-5-36).

A summary of the comments received and the Director's responses to them can be found in the section of this notice entitled "Public Comment".

III. Director's Findings

1. General

Except as discussed below, the revised State rules are substantively equivalent to the corresponding Federal regulations in effect on June 15, 1988, with minor changes to improve clarity and specificity and incorporate State references and terms where deemed necessary or useful. In addition, the revised rules contain those changes necessary to conform to court decisions concerning the Federal rules (*In re: Permanent Surface Mining Regulation Litigation* (I), 14 ERC 1083 (D.D.C. 1980) ("Round I"); 19 ERC 1477 (D.D.C. 1980) ("Round II"); 653 F.2d 514 (D.C. Cir. 1981), *cert. den.*, 102 S. Ct. 106 and *In re: Permanent Surface Mining Regulation Litigation* (II), 21 ERC 1193, 14 ELR 20617 (D.C.C. 1984) ("Round I"); 21 ERC 1724, 15 ELR 20481 (D.D.C. 1984) ("Round II"); 22 ERC 1557 (D.D.C. 1985 ("Round III, VER decision"); 620 F. Supp. 1519 (D.D.C. 1985) ("Round III"); *National Wildlife Federation* v. *Hodel*, 839 F.2d 694 (D.C. Cir. 1988)).

All other documents approved as part of the Montana program, such as enforcement procedures and civil penalties promulgated in accordance with 30 CFR parts 843 and 845 (50 FR 260, January 3, 1985), and the blaster certification program promulgated in accordance with 30 CFR part 850 (50 FR 47388, November 18, 1985), remain in effect and are not adversely affected by these changes. The amendment satisfies all but two of the requirements placed on Montana by the Director's Part 723 notifications of July 2, 1985, June 9, 1987 and November 21, 1988. The two remaining issues are: (1) A requirement that a 90 percent confidence interval be used for evaluating all types of vegetation; and (2) a requirement that the vegetative ground cover shall not be less than that required to achieve the approved postmining land use of fish and wildlife habitat, recreation, shelter belts, or forest products. The State intends to address these two requirements in a future submission. None of the changes contained in the amendment alter the original findings made at the time of program approval, as required by section 503 of SMCRA and 30 CFR 732.15(b) through (d). These findings pertain to the State's authority and capability to implement, administer, and enforce a program to regulate coal exploration and surface coal mining and reclamation operations (45 FR 21560, April 1, 1980).

The State has also made minor wording changes to its abandoned mine land reclamation rules in sections ARM 26.4.1231 through 26.4.1242. These minor wording changes are not substantive and do not affect the original findings approving the abandoned mine land reclamation rules.

Therefore, pursuant to SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, the Director finds that the amendment is no less stringent than SMCRA and no less effective than the corresponding Federal regulations in effect on June 15, 1988, and that it conforms to all subsequent court decisions concerning the validity of these regulations. Exceptions to this general finding are noted in the specific findings which follow.

In addition, in accordance with 30 CFR 732.17 (d) through (f), the Director, by letter dated May 11, 1989 and March

29, 1990, has also notified Montana of additional program changes needed as a result of changes in the Federal regulations since June 15, 1988. He will provide additional notifications of this nature in the future as the need arises.

The revised rules also retain certain previously approved alternatives to the Federal regulations. These alternatives pertain to: (1) Analysis of pyrite and marcasite; (2) postmining land use; (3) alternate reclamation; (4) mountain-top removal; and (5) steep slope mining operations (Findings 4 (b), (c), and (d), 45 FR 21560, April 1, 1980). The Director finds that, with respect to these alternatives, none of the changes proposed in the amendment alter OSM's original findings made at the time of program approval nor are these findings affected by revisions to the Federal regulations since that time.

2. Definitions

a. ARM 26.4.301(61)(b), Definition of "Special Use Pasture"

Montana proposes to revise ARM 26.4.301(61)(b) by replacing the "pastureland" land use category with a "special use pasture" land use category and rewriting the definition for "special use pasture." "Special use pasture" is defined as land that has been seeded or interseeded to native, introduced, or a combination of native and introduced forage species of limited diversity that provides special or seasonal use for livestock on a more intensively managed basis than that which would occur if the land was grazing land. Special use pasture land may include the occasional cutting of the forage species for livestock feed. The revised Montana definition retains the inclusions of land used for facilities in support of and adjacent to special use pasture land.

Federal regulation 30 CFR 701.5 defines "pastureland" as land used primarily for the long-term production of adapted, domesticated forage plants to be grazed by livestock or occasionally cut and cured for livestock feed. The introductory language of the Federal definition of "land use" includes a statement that land uses may include land used for support facilities that are an integral part of the use. This statement was originally included in several of the land use categories but was later moved to the first paragraph to eliminate redundancy (48 FR 39892, September 1, 1983).

The Director finds that there are no substantive differences between the revised Montana definition of "special use pasture" land and the Federal definition of "pastureland." Therefore, the Director finds that the revised Montana definition of "special use pasture" land is no less effective than the Federal definition of "pastureland."

b. ARM 26.4.301(61)(d), Definition of "Commercial Forest Land"

Montana proposes to revise ARM 26.4.301(61)(d) by replacing the "forestry" land use category with a "commercial forest land" land use category and rewriting the definition for "commercial forest land." Montana proposes to define "commercial forest land" as land producing or being managed to produce stands of industrial wood that will be utilized as such. "Commercial forest land" must produce or be managed to produce in excess of 20 cubic feet per acre per year of industrial wood. Currently inaccessible and inoperable areas are included, except where such areas are small and unlikely to become suitable for production of industrial wood in the foreseeable future. The proposed definition for "commercial forest land" is substantively identical to that adopted by the U.S. Forest Service (Green, O'Brien and Schaffer, 1985), the Montana Forestry Division, the U.S. Bureau of Land Management and the commercial forestry industry.

Federal regulation 30 CFR 701.5 defines forestry land use as land used or managed for the long-term production of wood, wood fiber or wood-derived products.

The first sentence of the proposed State definition, which defines "commercial forest land" as land producing or being managed to produce stands of industrial wood, is not substantively different than the Federal definition of "forestry land." The additional language in the State definition provides detail beyond that given in the Federal definition without reducing its effectiveness. Therefore, the Director finds that the proposed definition is no less effective than the Federal definition and is approving the proposed definition.

c. ARM 26.4.301(61)(j), Definition of "Undeveloped Land"

Montana proposes to delete the "undeveloped land" land use category from its land use definition at ARM 26.4.301(61)(j). Federal regulation 30 CFR 701.5 defines undeveloped land as land that is undeveloped or, if previously developed, land that has been allowed to return naturally to an undeveloped state, or has been allowed to return to forest through natural succession.

The effect of Montana's removal of the undeveloped land land use category is to necessarily include any lands that previously would have been included in this category in one of the other nine land use categories defined in the State program. The deletion of this land use category does not render the Montana program less effective than the Federal regulations. Therefore, the Director is approving the proposed deletion of the undeveloped land land use category.

d. ARM 26.4.301(82), Definition of "Previously Mined Area"

Montana's revised rule ARM 26.4.301(82) defines "previously mined area" as land on which coal mining operations were previously conducted, except those lands subject to the standards of the Montana Strip and Undeground Mine Reclamation Act or of the Surface Mine Control and Reclamation Act.

Montana's proposed definition of "previously mined area" is substantively identical to the Federal definition at 30 CFR 701.5. However, in the case of *National Wildlife Fed'n* v. *Lujan*, Nos. 87–1051, 87–1814, and 88–2788 (D.D.C. Feb. 12, 1990), the court addressed two concerns pertaining to the Federal definition. The first was whether "previously mined" means that mining occurred (1) before the date Congress enacted SMCRA (August 3, 1977), or (2) before the various dates that SMCRA's substantive requirements began to apply to specific mining operations or sites. This issue is important because pursuant to 30 CFR 816.106(b), 817.106(b), and 819.19(b) operators remining previously mined areas do not need to completely eliminate reaffected or enlarged highwalls if there is not enough reasonably available spoil to do the job. Rather, in such situations, the operator's duty is to eliminate the highwalls only to the "maximum extent technically practical." Given this limited exception to the requirement to completely remove all highwalls, the second related concern was that the current definition might allow an operator to remine an area that had once been fully and satisfactorily reclaimed, and then to leave the area only partially reclaimed by not completely eliminating any remined or reaffected highwalls.

The court found that "a definition using the date of SMCRA's enactment more closely conforms to the Act and the court's previous ruling on the issue" (*National Wildlife Fed'n*, Mem. Op. at 42, citing to *In re: Permanent Surface Mining Regulation Litigation* (II), 21 ERC 1193, 14 ELR 20617 (D.D.C. 1984) ("Round I")). Consequently, the court held that the date of enactment of SMCRA (August 3, 1977) "must be the time from which the temporal concepts

of 'preexisting' and 'previous' are measured." (*Id.*, Mem. Op. at 50). With respect to the second issue, the court held that a "definition cannot stand that lets full reclamation be undone for a later partial effort. The definition must be rewritten to make this impossible." (*Id.*, Mem. Op. at 48). Accordingly, the court remanded "the definition of previously mined area to the Secretary to correct both of the flaws identified above." (*Id.*, Mem. Op. at 51).

Although OSM has not yet actually suspended the above definition, OSM may not, because of the court's remand, use the existing Federal definition of "previously mined area" at 30 CFR 701.5 in evaluating the sufficiency of Montana's proposed definition. Accordingly, OSM has evaluated the proposed amendment based upon its consistency with the appropriate provisions of SMCRA as interpreted by the court.

Based on the above and the court's remand of the Federal definition of "previously mined area" to "correct both of the flaws identified" in the decision, the Director finds that to the extent Montana's proposed definition of "previously mined area" (1) interprets or contemplates the temporal concept of "previously" as being any other date than August 3, 1977 (the date of enactment of SMCRA), or (2) allows lands which have once been fully and satisfactorily reclaimed to be remined and then only partially reclaimed, such definition is less stringent than the general provisions of SMCRA. The Director is, therefore, not approving Montana's proposed definition of "previously mined area" at § 701.5 to the extent that the definition (1) interprets or contemplates the temporal concept of "previously" as being any other date than August 3, 1977, or (2) allows lands which have once been fully and satisfactorily reclaimed to be remined and then only partially reclaimed. The Director will, pursuant to 30 CFR 732.17(d), inform Montana of regulatory changes needed to amend this definition.

e. ARM 26.4.301(117), Definition of "Test Pit"

Montana proposes to revise its definition of "test pit" to add a statement that materials obtained from a prospecting test pit are used for test purposes or for the purpose of developing a market and not for direct economic profit.

Federal regulations lack an exact counterpart provision to this definition. However, Federal exploration regulations at 30 CFR 772.14(b) allow the extraction of more than 250 tons of coal under an exploration permit if the coal is intended for testing purposes only. There is no provision in the Federal regulations for using coal extracted under a exploration permit for developing a market.

OSM notified Montana of its concern that extraction of coal under a prospecting permit for market development was less effective than the Federal regulations governing exploration. In response, by letter dated January 19, 1990 (Administrative Record No. MT-5-47), Montana stated that they would eliminate the phrase "or for the purpose of developing a market" from the revised definition.

With the removal of the phrase "or for the purpose of developing a market," the revised definition is no less effective than the Federal exploration regulations. Therefore the Director is approving the revised definition of "test pit" with the exception of the phrase "or for the purpose of developing a market." The Director is requiring the State to amend its definition in accordance with this finding.

3. ARM 26.4.313(3)(b), 26.4.501(4)(a), 26.4.515(2), and 26.4.519A, Alternatives to Highwall Reduction

Montana proposes to revise ARM 26.4.313(3)(b) to allow an operator to propose alternate plans other than highwall reduction if the restoration will be consistent with the purposes of section 82-4-232(7) of the Montana Act and ARM 26.4.821 through 26.4.825. Montana also proposes to revise ARM 26.4.501(4)(a) by, among other things, adding language which states that "[h]ighwalls must be reduced or backfilled in compliance with ARM 26.4.501A and 26.4.515, as appropriate." Montana further proposes to revise rule ARM 26.4.515 by adding subsection (2) which states that highwall reduction alternatives may be permitted where the State determines that: (1) they are compatible with the proposed postmining land use; (2) they are stable, achieving a minimum static safety factor of 1.3; and (3) they are in compliance with the applicable portions of ARM 26.4.821 through 26.4.824 and 26.4.313. Finally, the State proposes to amend its regulations by adding section ARM 26.4.519A, dealing with thick overburden and excess spoil, which provides, in part, that "[w]here thick overburden is encountered, all highwalls and depressions must be eliminated with spoil and suitable waste materials, unless otherwise approved by the department in accordance with 26.4.313(3)(b) and 26.4.821-26.4.824."

Federal regulations 30 CFR 816.102(a) and 817.102(a) provide, in part, that disturbed areas shall be backfilled and graded to achieve approximate original contour, eliminate all highwalls, and achieve a postmining slope with a minimum long-term static safety factor of 1.3 and to prevent slides. Federal regulations 30 CFR 816.133(d)(7) and 817.133(d)(7) allow variances to restoration of approximate original contour, but require, as a condition of obtaining any such variance, that all highwalls be completely backfilled with spoil material, in manner which results in a static factor of safety of at least 1.3, using standard geotechnical analysis.

Areas disturbed by mining operations must be returned to approximate original contour. If bluffs were a part of the premining topography, the features similar in extent and function may be created when necessary to restore the approximate original contour. When a highwall remnant, modified as necessary, meets all requirements for approximate original contour, stability, slope and any other regulatory restrictions, it may be retained on the reclaimed site.

The revised Montana rules do not specify under what conditions alternatives to highwall reduction may be allowed. Montana has been notified that further clarification of under what conditions Montana will allow alternatives to highwall reduction is necessary before the Director can determine whether the revised rules are no less effective than the Federal regulations (MT-5-49). Therefore the Director is deferring his decision on Montana rules ARM 26.4.313(3)(b) and 26.4.515(2) until the State provides further clarification on how the rules will be implemented. The Director is also deferring his decision on proposed rule ARM 26.4.519A and the proposed revision to ARM 26.4.501(4)(a) to the extent that such provisions incorporate the provisions of ARM 26.4.313(3)(b) or 26.4.515(2).

4. ARM 26.4.314(2)(d), Water Monitoring Data Reporting

Montana proposes to revise ARM 26.4.314(2)(d) to require that all surface water and groundwater monitoring records be submitted to the State semi-annually.

Federal regulations 30 CFR 816/817.41 (c)(2) and (e)(2) require that surface water and groundwater monitoring results be submitted quarterly.

Proposed rules ARM 26.4.645(8) and 26.4.646(2) require that all monitoring data also be maintained on a current basis on-site and be available for review during inspections. These provisions allow the inspector to evaluate the

monitoring data on a continuous basis. Pursuant to ARM 26.4.407(1), the State also has the option of conditioning the permit to require more frequent reporting if necessary. The proposed change in the reporting requirement does not affect the State's requirement at ARM 26.4.304(5) to conduct monitoring on a quarterly basis.

Because the availability of the records for on-site review, coupled with the required semi-annual submission of the records and the ability to require more frequent reporting if necessary, provides the same level of environmental protection afforded by the Federal regulations, the Director finds the revised State rule is no less effective than the Federal Regulations.

5. Protection of Historic Properties

a. ARM 26.4.318, 26.4.1131(1) and 26.4.1137, Protection of Parks and Historic Sites

Revised State rules ARM 26.4.318, ARM 26.4.1131(1) and 26.4.1137 prohibit or limit coal mining activities on any publicly owned park or places included in the National Register of Historic Places (NRHP) and on areas with other significant cultural resources.

The Federal regulations at 30 CFR 761.11(c) and 761.12(f)(1) extend similar protection to any places listed on the NRHP. The preamble to these rules states that the protection extends to both publicly and privately owned places (52 FR 4244, February 2, 1987).

Montana's Commissioner of State Lands, the authorized representative of the Board of Land Commissioners that is responsible for promulgation of rules, has stated that the State interprets their rules to extend protection to both publicly and privately owned sites listed on the NRHP (Administrative Record No. MT–5–19). On the basis of the States' rules and this interpretation the Director finds that the Montana program, with regard to protection of historic sites, is no less effective than the Federal regulations. Therefore, the Director is approving revised rules ARM 26.4.318, 26.4.1131(1) and 26.4.1137.

b. ARM 26.4.404(5)(b), Application Review and ARM 26.4.405(6)(f), Written Findings

Montana proposes to revise ARM 26.4.404(5)(b) to require that the State assure that a determination of effect is completed for "all listed eligible cultural resource sites in accordance 36 CFR 800." Montana is also revising ARM 26.4.405(6)(f) to require that the State may not approve an application unless the applicant affirmatively demonstrates, and the State confirms in writing, that the applicant has complied with applicable Federal and State cultural resource requirements including 26.4.318, 26.4.1131 and 26.4.1137.

The Federal counterpart to these State rules is 30 CFR 773.15(c)(11), which requires that the applicant affirmatively demonstrate, and the regulatory authority find in writing, that the regulatory authority has taken into account the effect of the proposed permitting action on properties listed on or eligible for listing on the NRHP. Under the Federal rule, this finding may be supported in part by inclusion of appropriate permit conditions or changes in the operation plan protecting historic resources, or a documented decision that the regulatory authority has determined that no additional protection measures are necessary.

The Montana Act at section 82–4–222(1)(o) allows the State to require such other or further information as it may require. ARM 26.4.404(2)(a) allows the State to propose modifications to the application, delete areas or reject the entire application if the application is not determined to be acceptable. ARM 26.4.407(2) requires the permittee to comply with any express conditions which the State places on the permit to ensure compliance with the Montana Act or this rule promulgated pursuant thereto. Also, in response to the June 9, 1987 letter sent to the State by OSM in accordance 30 CFR 732.17(d), Montana stated that the detail of the finding required under ARM 26.4.405(6)(f) would be site specific (Administrative Record No. MT–5–48).

The Montana rules cited above, taken in conjunction with ARM 26.4.404(5)(b) and 26.4.405(6)(f), make the Montana program comparable to Federal regulation 30 CFR 773.15(c)(11). However, ARM 26.4.404(5)(b), as proposed, applies to "all listed eligible cultural resource sites" rather than to "properties listed on or eligible for listing on the NRHP" as required by the Federal regulations.

This does not render the revised Montana rules less effective than the counterpart Federal provisions. However, to be consistent with the Federal regulation at 30 CFR 773.15(c)(11), Montana must amend its program to extend the protection afforded to properties listed on the NRHP to those properties which are eligible for listing on NRHP. Therefore, the Director is requiring that Montana amend rule ARM 26.4.404(5)(b) in accordance with this finding.

c. ARM 26.4.404(5)(d), Application Review

Montana proposes to revise ARM 26.4.404(5)(d) to require that the State assure that coordination of the review process for cultural resource compliance is carried out in accordance with the provisions of the Archeological Resources Protection Act of 1979 (16 U.S.C. 470aa *et seq.*) where Federal or Indian lands are involved.

Federal regulation 30 CFR 773.12 requires in part, for Federal regulatory programs only, that the regulatory program provide for the coordination of permit review and issuance with the applicable requirements of the Archeological Resources Protection Act of 1979 (16 U.S.C. 470aa *et seq.*) where Federal and Indian lands covered by the Act are involved.

OSM expressed concern that the reference to Indian lands in the proposed State rule could be interpreted to confer State jurisdiction on Indian lands, for which OSM has sole regulatory responsibility (Administrative Record No. MT–5–15). In response to this concern, the Montana Commissioner of State Lands, the authorized representative of the Board of Land Commissioners that is responsible for promulgation of rules, has stated that removal of this language is unnecessary because the State cannot confer on itself by rule, jurisdiction that is not already granted by State or Federal law (Administrative Record No. MT–5–30).

Therefore the Director finds the State rule no less effective than the Federal regulation with the understanding that the inclusion of Indian lands in the State rule in no way confers jurisdiction over Indian lands to the State.

6. ARM 26.4.405(6)(1), Findings and Notice of Decision

Montana proposes to revise its rules at ARM 26.4.405 by, among other things, adding a subsection (6)(1) that requires the applicant affirmatively demonstrate, and the State confirm, in writing, that the applicant proposes to use existing structures in compliance with ARM 26.4.309." Federal regulation 30 CFR 773.15(c)(6) requires that the applicant affirmatively demonstrate, and the regulatory authority find, in writing, that the applicant has demonstrated that any existing structure will comply 30 CFR 701.11(d) and the applicable performance standards.

As revised, the Montana rule is no less effective than the Federal regulation. However, as part of the proposed amendments to its program,

Montana has eliminated ARM 26.4.309. The applicable cross-reference in the revised State rules is ARM 26.4.1302, governing the use of existing structures. Therefore, the Director is approving the proposed amendment at ARM 26.4.405(6)(1), but is requiring the State to amend ARM 26.4.405(6)(1) to correct the cross-reference to cite ARM 26.4.1302, rather than deleted rule ARM 26.4.309.

7. ARM 26.4.607(2), Maintenance of Roads

Montana has revised rule ARM 26.4.607(2) to allow the State to waive the requirement of ARM 26.4.607(2)(a) that ditches, culverts, drains, trash racks, debris basins and other structures serving to drain access and haul roads not be restricted or blocked in any manner that impedes drainage or adversely affects the intended purpose of the structure. Under the proposed amendment at ARM 26.4.607(2)(b), the State may waive this requirement only after determining that: (1) The operator cannot maintain such structures due to wet field conditions resulting from sudden runoff events; (2) obstructions to these structures will not result in environmental damage or imminent harm to the health and safety of the public; and (3) runoff and sediment are totally contained.

The Federal regulations lack a counterpart to ARM 26.4.607(2). Federal regulations 30 CFR 816.150(e)(1) and 817.150(e)(1) require that roads be maintained to meet the performance standards for roads and any additional criteria specified by the regulatory authority.

The revised State rule provides additional detail beyond that given in the Federal regulations for maintenance of structures serving to drain access and haul roads. The proposed revision does not render the Montana rule less effective because it limits the State regulatory authority's ability to grant a waiver to circumstances where access to the structures to remove any obstructions may be limited; ensures that before a waiver is granted the public health and safety and the environment are protected, and protects the hydrologic balance by requiring that all runoff and sediment be totally contained. The Director finds the revised rule is no less effective than the Federal regulations governing maintenance of roads and is therefore approving ARM 26.4.607(2).

8. ARM 26.4.639(22)(a)(i), Removal of Sediment Ponds

Montana revised rule ARM 26.4.639(22)(a)(i) requires that sediment pond and other treatment facilities not be removed sooner than 2 years after the last augmented seeding within the drainage, unless otherwise approved by the Montana Department of State Lands (Department) in compliance with the water quality performance standard rule (ARM 26.4.633) and the sediment control measure rule (ARM 26.4.636). A pond removed sooner than 2 years after the last augmented seeding within the drainage must be replaced by a sediment control measure determined by the Department to be the best technology currently available.

Federal rule 30 CFR 816.46(b)(5) requires that siltation structures not be removed sooner than 2 years after the last augmented seeding. However in *In re: Permanent Surface Mining Regulation Litigation* (II), 620 F. Supp. 1519 (D.D.C. 1985) ("Round III"), the Federal regulations at 30 CFR 816.46(b)(2) and 817.46(b)(2) were remanded because the preamble to the regulations failed to provide sufficient rationale for requiring siltation structures in every instance. OSM suspended these rules on November 20, 1986 (51 FR 41957).

The effect of this suspension is to require that the sediment control of all surface drainage be governed by the best technology currently available (BTCA) rather than requiring such drainage to be passed through siltation structures. The suspension also affects 30 CFR 816.46(b)(5) because, now that BTCA, rather than just siltation structures, is required for sediment control from disturbed areas, 30 CFR 816.46(b)(5) is interpreted to require that BTCA sediment control measures cannot be removed sooner than 2 years after the last augmented seeding (Id.).

As revised, Montana's rule requires that if a sediment pond or other treatment facility is removed sooner than 2 years after the last augmented seeding, it must be replaced by BTCA control measures. Therefore, either a sediment pond, other treatment facility, or a BTCA control measure would be in place for the 2-year period after the last augment seeding.

The Director finds the Montana rule is no less effective than the Federal rule because it ensures that sediment controls will be in place for at least 2 years after the last augmented seeding.

9. ARM 26.4.721(2), Repair of Rills and Gullies

Montana has revised ARM 26.4.721(2) to require that the repair of rills and gullies involving reseeding and replanting of the affected area will result in restarting the period of responsibility for reestablishing vegetation unless it can be demonstrated that such work is a normal conservation practice and is limited to minor erosional features on land for which proper erosion-control practices are in use and to rills and gullies that affect only small areas and do not recur. The proposed State rule allows the State to make a site-specific determination of the appropriateness of allowing the repair of rills and gullies as a normal conservation practice based on the required demonstration.

The Federal regulations at 30 CFR 816.116(c)(4) allow States to approve selective husbandry practices on reclaimed lands without extending the liability period if the practices meet certain criteria and are approved by the Director of OSM through the State program amendment process. These practices cannot include augmented seeding, fertilization or irrigation. In addition, they must be expected to continue as part of the postmining land use or, if discontinued after the liability period expires, must not reduce the probability of permanent revegetation success. Also, the practice must be a normal husbandry practice in the region for that type of land use.

OSM's technical review of the Montana submission (Adminstrative Record No. MT-5-30) has determined that the repair of those rills and gullies identified in the proposed rule is a standard management practice on unmined land in Montana and that such practice qualifies as a normal husbandry practice under the Federal rule. The Director finds that the revised Montana rule is no less effective than the Federal regulation becuase the repair of rills and gullies, as defined in the State program, has been determined to be a normal husbandry practice.

10. Remining

a. ARM 26.4.836, Eligibility for Abandoned Mine Land Status

Montana has amended its program to add rule ARM 26.4.836, which deals with the eligibility of remined land for abandoned mine land status. ARM 26.4.836(1) states that areas within a remining permit area that will not be directly disturbed by remining activities remain eligible for abandoned mine land reclamation funding, if the proposed remining operation does not adversely affect existing or probable abandoned mine land reclamation plans and associated costs, and if this is documented in the application. ARM 26.4.836(2) states that any remining operation must fulfill the reclamation responsibilities described in the permit

and to the extent that those responsibilities do not include reclamation of site problems eligible for abandoned mine land funding, those site problems may remain eligible for that funding. It further allows the applicant to adopt a reclamation plan for the site that is on file with the Department, provided the applicant demonstrates that this plan is in compliance with the remining application and operating requirements.

The Federal counterpart to this rule is section 404 of SMCRA. Section 404 defines land and water eligible for reclamation or drainage abatement expenditures under title IV as those which were mined for coal or which were affected by such mining, wastebanks, coal processing, or other coal mining processes and abandoned or left in an inadequate reclamation status prior to the date of enactment of SMCRA, and for which there is no continuing reclamation responsibility under State or other Federal laws. Federal regulation 30 CFR 773.17(b) requires that, as a condition of the permit, the permittee conduct all surface mining and reclamation operations only as described in the approved application, unless otherwise directed in the permit.

The Director finds ARM 26.4.836(1) is no less stringent than section 404 of SMCRA and 26.4.836(2) is consistent with and no less effective than Federal rule 30 CFR 773.17(b).

b. ARM 26.4.837, Bonding

Montana has amended subchapter 8 to add ARM 26.4.837 governing the bonding of remining operations. Proposed rule ARM 26.4.837(1) requires bond to be submitted in accordance with the State's bonding rules and the State law. ARM 26.4.837(2) states that if approval is granted for a remining and reclamation plan that does not adversely affect eligibility for abandoned mine land reclamation funding on the site pursuant to 26.4.836, the performance bond for the area must be the estimated total cost for reclamation of the site in accordance with the approved reclamation plan.

Federal regulations do not provide specific criteria for bonding of remining operations. Such operations are instead subject to the general Federal bonding regulations that are found at 30 CFR part 800. Federal regulation 30 CFR 800.14 requires that the bond amount must be adequate to cover total reclamation costs for the site to the extent called for in the reclamation plan.

In that ARM 26.4.837 also requires an operator to post a bond for the total costs for reclamation consistent with the reclamation plan, the Director finds Montana's proposed rule is no less effective than the Federal rule.

11. ARM 26.4.1301A, Implementation of Revised Rules

Montana proposed rule ARM 26.4.1301A requires that, by January 13, 1991 (two years after the effective date of the State's proposed rules), each operator and test pit operator submit to the regulatory authority the following: An index to the existing permit, cross-referencing each section of the permit to subchapters 3 through 12, as they read prior to and subsequent to the effective date of the proposed rules; a modified table of contents for the existing permit; maps showing the various stages of mining and reclamation activity for each portion of the permit area as they existed as of 11:59 p.m. on the day prior to the effective date of the proposed rules and an application for all permit revisions necessary to bring the permit and operations conducted thereunder into compliance with the revised rules. No permittee may continue to mine under an operating permit after July 13, 1991 unless the permit has been revised to comply with subchapters 3 through 12, as amended, and all operations are conducted in compliance with the amended rules. Each new permit and each amendment to an existing permit applied for and issued on or after the effective date of the proposed rules must be in compliance with subchapters 3 through 12 as amended.

There is no exact Federal counterpart. However, under Federal regulation 30 CFR 774.11(b) the regulatory authority may, after the midterm review or at any time, require by order reasonable revision of a permit to ensure compliance with the Act and the regulatory program. The proposed rule provides additional detail beyond that given in the Federal regulations without reducing the Montana programs effectiveness. The Director finds Montana proposed rule ARM 26.4.1301A is no less effective than Federal regulation 30 CFR 774.11(b).

IV. Summary and Disposition of Comments

As discussed in the section of this notice entitled "SUBMISSION OF AMENDMENT", the Director solicited public comments and provided opportunity for a public hearing on the proposed amendment. No public comments were received, and since no one requested an opportunity to testify at a public hearing, no hearing was held.

Pursuant to section 503(b) of SMCRA and 30 CFR 732.17(h), comments were also solicited from various Federal agencies with an actual or potential interest in the Montana program. A summary of the comments and the Director's responses to them appears below:

1. The Bureau of Land Management and the U.S. Fish and Wildlife Service responded with no substantive comments.

2. The Department of the Interior, Bureau of Indian Affairs (BIA), commented that the amendment did not acknowledge the presence of Indian Lands or the need to notify BIA or Indian mineral owners if any planned surface mining operations were adjacent to Indian Lands (Administrative Record. No. MT–5–14). In response, the Director notes that SMCRA does not establish separate requirements for operations bordering, but not located on Indian Lands. Like the provisions of SMCRA at 507(b)(6) and Federal regulation 30 CFR 778.13(f) Montana proposed rule ARM 26.4.303(4) requires that adjacent surface and mineral owners be identified. It does not require that they receive notification independent of the general public notice in the local newspapers within the locality of a planned mining operation.

3. The BIA expressed a second concern over the inclusion of a reference to Indian lands in proposed Montana rule ARM 26.4.404(5)(d) (Administrative Record No. MT–5–39). As discussed item 5.c. of the Director Findings, Montana does not interpret this rule to grant jurisdiction to the State that is not already granted by State or Federal law. The Director finds no change is necessary.

4. The Montana State Historic Preservation Office (SHPO) supported the proposed amendment, but expressed the following concerns (Administrative Record No. MT–5–6):

a. SHPO stated that the National Historic Preservation Act's implementing regulations, 36 CFR part 800, should be referenced in Montana rules ARM 26.4.304, 26.4.318, and 26.4.1001. However, as discussed in the preamble to the Federal rules protecting historic sites (52 FR 4244, February 10, 1987) in States with regulatory programs approved by OSM, the regulatory authority issues permits for surface coal mining operations. These permits are State undertakings, not Federal undertakings, and thus the provisions of Federal laws and rules, such as the National Environmental Policy Act, the National Historic Preservation Act and 36 CFR part 800, do not apply directly. State programs must be no less stringent than SMCRA and no less effective than the rules adopted by OSM under

SMCRA. However, States are not responsible for direct program implementation of other Federal laws such as the National Historic Preservation Act. There is no requirement in SMCRA that the approved State programs be "no less effective" than the requirements of the National Historic Preservation Act. The Director has determined that the Montana program is no less stringent than SMCRA, and no less effective than the Federal regulations. Therefore, no further changes are necessary.

b. SHPO recommended deleting term "adversely" from ARM 26.4.318(1) and 26.4.1137(1) because the term "adverse effect" has a specific meaning under section 106 of the National Historic Preservation Act. This meaning does not include all effects, particularly what is referred to as "no adverse effect" by virtue of certain treatments or conditions. With respect to the use of the term "adversely", Montana's use of the term in the phrase "adversely affect" parallels and is consistent with the use of the term in 30 CFR 780.31 and 761.12(f)(1). Therefore the Director finds no change is necessary.

c. Finally SHPO questioned whether the phrase "listed eligible cultural resources sites" in ARM 26.4.404(5)(b) refers to those identified in ARM 26.4.304(2) or to those actually listed on the NRHP. SHPO states that findings of effect should apply to both those sites eligible for listing and listed on the NRHP pursuant to 36 CFR 800.5. Montana proposed rule ARM 26.4.404(5)(b) requires a determination of effect be completed for all listed eligible cultural resource sites in accordance with 36 CFR part 800. As discussed in item 5.b. of the Director's Findings, the Director is approving the revised rule with a requirement that the State amend its program to extend protection to properties eligible for listing on the NRHP, as well as those listed on the NRHP. This resolves SHPO's concern.

5. The U.S. Army Corps of Engineers responded by reiterating their responsibilities for regulating certain activities in our nation's waterways pursuant to section 10 of the River and Harbor Act of 1899 and section 404 of the Clean Water Act (Administrative Record No. MT-5-11). Specifically, section 10 requires that a permit be issued prior to the accomplishment of any work in, on, over, or under a navigable water of the United States. Section 404 requires that a permit be issued prior to any discharge of dredged or fill material into a water of the United States. The comment went on to identify whom an applicant should contact for a determination of permit requirements pursuant to section 10 and section 404.

The Director notes that the Montana regulations at ARM 26.4.401(5), similar to the Federal regulations at 30 CFR 773.13(a)(3), require the regulatory authority to notify Federal and State agencies with jurisdiction over or an interest in the areas of a proposed coal mining operation and authority to issue all other permits and licenses needed by the applicant in connection with the proposed coal mining operation. The U.S. Army Corps of Engineers is specifically mentioned as requiring notification. This notification must occur prior to the issuance of a permit. This ensures that prior to commencement of any mining the U.S. Army Corps of Engineers would have an opportunity to review the permit application to determine if permits were necessary under either section 10 or section 404. In addition, as stated in Montana's response to the Environmental Protection Agency's concern over discharges to waters of the United States, the State's hydrologic regulations construed in conjunction with the Clean Water Act prohibit placement of sediment and sediment ponds without a section 404 permit.

6. The Bureau of Reclamation was concerned that the lack of a definition of the term "department" could result in confusion over whether the rules were referring to the Department of Interior or the Montana Department of State Lands (Administrative Record No. MT-5-12). The Director notes that the State includes a definition of the term "department" in Montana Strip and Underground Mine Reclamation Act at Section 82-4-203(13). This should eliminate any confusion.

7. The Bureau of Mines (BOM) expressed concern that three areas of the States revised rules appear to be excessively burdensome to potential mine operators (Administrative Record No. MT-5-10). First, according to BOM, the baseline information on environmental resources required from the applicant for a permit is extraordinarily extensive in scope and expensive to compile and, in effect, constitutes an environmental impact statement (EIS). Second, the BOM contends that the review and acceptance of a permit application will require approximately 6 months at a minimum, and if an EIS is required, an additional year would be required. With review and public comments, the total lead time just to obtain a permit will be on the order of 2 years, and the overall costs will be high. Finally, the BOM expressed concern that the requirements concerning revegetation appear to be unnecessarily complicated and restrictive.

The Director has determined that these areas of the Montana program are no less effective than the counterpart Federal regulations. Further, section 505(b) of SMCRA states that any provision of any State law or regulation in effect upon the date of enactment of this Act, or which may become effective thereafter, which provides for more stringent land use and environmental controls and regulations of surface coal mining and reclamation operation than do the provisions of this Act or any regulation issued pursuant thereto shall not be construed to be inconsistent with this Act. Therefore, no changes to these areas of the State program can be required.

8. The Mine Safety and Health Administration (MSHA) expressed concern with the following sections of the revised rules (Administrative Record No. MT-5-27):

a. MSHA stated that wording should be included in ARM 26.4.624(4) addressing notification to underground mine operators when blasting are in close proximity to underground mines. According to MSHA, the ½-mile limit, as well as the mode of communication, as specified in the proposed rule may not be adequate for the underground mine operations.

This rule is substantively identical to Federal regulation 30 CFR 816.66(b) and is no less effective. The Montana program at ARM 26.4.623(1)(b) also requires that all local governments, public utilities and residents within 1 mile of the permit area receive a copy of the blasting schedule. This is more stringent than the Federal counterpart at 30 CFR 816.64(b)(2) which only requires notification of residents within ½ mile of the permit area. Finally, ARM 26.4.624(6) prohibits blasting within 500 feet of an underground mine unless the State approves otherwise based upon a preblasting survey, seismic investigation or other appropriate investigation. If an operator proposes blasting within 500 feet of an underground mine, ARM 26.4.624(7) requires that a blast design, including measures to protect the underground mine, be submitted. This is no less effective than the Federal requirements at 30 CFR 816.61(d). The Director finds no further change is necessary as the Montana blasting program is no less effective than the Federal program.

b. MSHA suggested that additional wording of "and as regulated by governing authorities" should be included at the end of proposed rule

ARM 26.4.624(5)(b). MSHA stated that a reason for this addition is that there are regulations within 30 CFR part 77.1303 which specify minimal safety precautions to be followed when re-entering the area. The revised Montana rule is substantively identical to and no less effective than Federal regulation 30 CFR 816.66(c). Therefore the Director is not requiring Montana to add the suggested language.

c. Revised Montana rule ARM 26.4.639(19) requires that each pond, including those not meeting the size or other criteria of 30 CFR 77.216(a), must be designed and inspected regularly during construction under the supervision of, and certified after construction by, a qualified registered professional engineer experienced in the construction of impoundments. MSHA stated that the proposed wording at ARM 26.4.639(19) should be changed from "including those not meeting the size or other criteria of 30 CFR 77.216(a)," to "including those not meeting the size or other requirements of 30 CFR 77.216(a)." According to MSHA, this change should be made because the MSHA regulation does not contain criteria but, instead, contains mandatory requirements. MSHA regulation 30 CFR 77.216(a) requires that a plan be submitted for each structure which impounds water, sediment or slurry if that structure can: (1) impound water, sediment or slurry to an elevation of five feet or more above the upstream toe of the structure and has a storage volume of 20 acre-feet or more; (2) impound water, sediment or slurry to an elevation of 20 feet or more above the upstream toe of the structure; or (3) as determined by the District Manager, present a hazard to coal miners. The Director believes that "criteria" is the appropriate word because 30 CFR 77.216(a) specifies what factors determine if plans for impounding structures must be submitted to MSHA. The Director notes that Federal regulations 30 CFR 816.46 and 816.49 also use the term "criteria" rather than "requirements". Therefore the Director is not requiring Montana to revise its language.

Environmental Protection Agency Concurrence

Under 30 CFR 732.17(h)(11)(ii), the Director is required to obtain the written concurrence of the Administrator of the Environmental Protection Agency (EPA) with respect to any provisions of a State program amendment which relates to air or water quality standards promulgated under authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). In response to OSM's request for concurrence, the Environmental Protection Agency originally expressed concern that Montana's regulations could be interpreted to allow instream treatment of coal mine wastes in waters of the United States. The EPA stated that this was impermissible under the Clean Water Act and EPA's implementing regulations, unless a section 404 permit is first obtained from the Army Corps of Engineers (Administrative Record No. MT–5–17). OSM forwarded this concern to the State (Administrative Record No. MT–5–18). In Montana's response to OSM's March 20, 1989, deficiency letter (Administrative Record No. MT–5–19), the State included a statement that the State rule ARM 26.4.633(4) requires that all discharges must meet all applicable State and Federal laws and regulations. Further, ARM 26.4.638(1) requires that sediment control measures must be designed, constructed, and maintained using BTCA and must meet the more stringent of applicable State or Federal effluent limitations. Montana interprets location to be part of design. Finally, Montana construes these provisions, in conjunction with the Clean Water Act, to prohibit placement of sediment and sedimentation ponds without a 404 permit. The EPA reviewed Montana's response to their concern and provided concurrence that Montana's program, as amended, demonstrated the legal authority, administrative capability and technical conformity with controlling Federal National Pollutant Discharge Elimination System (NPDES) regulations necessary to maintain water quality standards set forth in the Clean Water Act.

V. Director's Decision

Based on the above findings, the Director is approving the proposed amendments submitted by Montana on December 21, 1988 as revised and clarified in the April 27, 1989 and June 1, 1989 responses to deficiencies identified by OSM. The Federal regulations at 30 CFR part 926 concerning the Montana program are being amended to implement this decision. The Director is approving the rules with the provision that they be fully promulgated in a form identical to that submitted to and reviewed by OSM and the public. However, the Director may require further changes in the future as a result of Federal regulatory revisions, court decisions, and OSM oversight of the Montana program. This final rule is being made effective immediately to expedite the State program amendment process and to encourage States to bring their programs into conformity with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

Effect of Director's Decision

Section 503 of SMCRA provides that a State may not exercise jurisdiction under SMCRA unless the State program is approved by the Secretary. Similarly, 30 CFR 732.17(a) requires that any alteration of an approved State program be submitted to OSM for review as a program amendment. Thus, any changes to the State program are not enforceable until approved by OSM. The Federal regulations at 30 CFR 732.17(g) prohibit any unilateral changes to approved State programs. In the oversight of the Montana program, the Director will recognize only the statutes, regulations and other materials approved by OSM, together with any consistent implementing policies, directives and other materials, and will require the enforcement by Montana of only such provisions.

VI. Procedural Determinations

National Environmental Policy Act

The Secretary of the Interior has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1291(d), no environmental impact statement need be prepared on this rulemaking.

Executive Order 12291 and the Regulatory Flexibility Act

On July 12, 1984, the Office of Management and Budget (OMB) granted OSM an exemption from sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, for this action OSM is exempt from the requirement to prepare a regulatory impact analysis, and this action does not require regulatory review by OMB. The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule will not impose any new requirements; rather, it will ensure that existing requirements established by SMCRA and the Federal regulations will be met by the State.

Paperwork Reduction Act

This rule does not contain information collection requirements which require approval by OMB under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 926

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: May 3, 1990.

Raymond L. Lowrie,

Assistant Director, Western Field Operations.

For the reasons set out in the preamble, title 30, chapter VII, subchapter T of the Code of Federal Regulations is amended as set forth below.

PART 926—MONTANA

1. The authority citation for part 926 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. In § 926.15, paragraph (h) is added to read as follows:

§ 926.15 Approval of Regulatory Program Amendments.

* * * * *

(h) With the exception of: rule 26.4.301(82), the definition of "previously mined area," to the extent that the definition interprets or contemplates the temporal concept of "previously" as being any other date than August 3, 1977, or allows lands which have once been fully and satisfactorily reclaimed to be mined and then partially reclaimed; rules 26.4.313(3)(b) and 26.4.515(2), governing alternatives to highwall reduction; and rules 26.4.519A and 26.4.501(4)(a) to the extent such provisions incorporate rules 26.4.313(3)(b) or 26.4.515(2), the following revisions to the subchapters of the Administrative Rules of Montana (ARM), as submitted December 21, 1988, and as modified and clarified on April 27 and June 1, 1989, are approved effective May 11, 1990 ARM 26.4 subchapter 3, definitions and strip mine permit application requirements; ARM 26.4 subchapter 4, mine permit and test pit prospecting permit procedures; ARM 26.4 subchapter 5, backfilling and grading requirements; ARM 26.4 subchapter 6, transportation facilities, explosives and hydrology; ARM 26.4 subchapter 7, topsoiling, revegetation, and protection of wildlife and air resources; ARM 26.4 subchapter 8, alluvial valley floors, prime farmlands, alternate reclamation, and auger mining; ARM 26.4 subchapter 9, underground coal and uranium mining; ARM 26.4 subchapter 10, prospecting; ARM 26.4 subchapter 11, bonding, insurance reporting, and special areas; ARM 26.4 subchapter 12, special departmental procedures; and ARM 26.4 subchapter 13, miscellaneous provisions.

3. In § 926.16, paragraphs (b), (c) and (d) are added to read as follows:

§ 926.16 Required Program Amendments.

* * * * *

(b) By July 10, 1990, Montana shall submit a proposed revision to its rules at ARM 26.4.301(117) to eliminate the phrase "or for the purpose of developing a test market" from the definition of test pit.

(c) By July 10, 1990, Montana shall submit a proposed revision to its rules at ARM 26.4.404(5)(b) to require that a determination of effects is completed for all properties listed on or eligible for listing on the National Register of Historic Properties.

(d) By July 10, 1990, Montana shall submit a proposed revision to its rules at ARM 26.4.405(6)(1) to correct the cross reference in the rule to cite rule ARM 26.4.1302, governing the use of existing structures, rather than the deleted rule ARM 26.4.309.

[FR Doc. 90-11055 Filed 5-10-90; 8:45 am]

BILLING CODE 4310-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD 05-90-19]

Special Local Regulations for Marine Events; New Bern Power Boat Regatta, Southeastern Division Championship; Trent River, New Bern, NC

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Special local regulations are being adopted for the New Bern Power Boat Regatta, Southeastern Division Championship to be held June 16 and 17, 1990 on the Trent River at New Bern, North Carolina. The event consists of 150–200 runabouts and hydroplanes racing within a closed course on the Trent River at New Bern, North Carolina. These regulations are necessary to control spectator craft and provide for the safety of life and property on navigable waters during the event.

EFFECTIVE DATES: These regulations are effective for the following periods:

7:30 a.m. to 8:30 p.m., June 16, 1990

7:30 a.m. to 8:30 p.m., June 17, 1990.

FOR FURTHER INFORMATION CONTACT: Stephen L. Phillips, Chief, Boating Affairs Branch, Boating Safety Division, Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704–5004, (804) 398–6204.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking has not been published for these regulations and good cause exists for making them effective in less than 30 days from the date of publication. Adherence to normal rulemaking procedures would not have been possible. Specifically, the sponsor's application to hold the event was not received in the district office until April 16, 1990, leaving insufficient time to publish a notice of proposed rulemaking in advance of the event.

Drafting Information

The drafters of this notice are QM1 Kevin R. Connors, project officer, Boating Affairs Branch, Fifth Coast Guard District, and Lieutenant Steven M. Fitten, project attorney, Fifth Coast Guard District Legal Staff.

Discussion of Regulations

The Top Gun Racing Team of New Bern, North Carolina submitted an application dated March 14, 1990 to hold the New Bern Power Boat Regatta, Southeastern Division Championship on the Trent River at New Bern, North Carolina. The event consists of 150–200 runabouts and hydroplanes racing within a closed course on the Trent River between the Atlantic and East Carolina Railway Bridge and U.S. Route 70 twin highway bridges, located approximately 0.35 miles southwest from the Atlantic and East Carolina Railway Bridge at New Bern, North Carolina. These regulations are necessary to control spectator craft and provide for the safety of life and property on navigable waters during the event. Backed up marine traffic will be allowed to transit the area between race heats. Since the main shipping channel will not be closed for extended periods of time, commercial traffic should not be severely disrupted.

Economic Assessment and Certification

These regulations are not considered either major under Executive Order 12291 on Federal Regulation or significant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact is expected to be so minimal that a full regulatory evaluation is unnecessary and the Coast Guard certifies that these regulations will not have a significant economic impact on a substantial number of small entities.

Federalism Assessment

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612 and determined the final rule does not raise sufficient implications to warrant the preparation of a Federalism Assessment.

Environmental Impact

This final rule has been thoroughly reviewed by the Coast Guard and determined categorically excluded from further environmental documentation in accordance with section 2.B.2.c of Commandant Instruction M16475.1B. A Categorical Exclusion Determination statement has been prepared and placed in permanent regulations 33 CFR 100.515 rulemaking docket.

List of Subjects in 33 CFR Part 100

Marine Safety, Navigation (water).

Final Regulations

In consideration of the foregoing, part 100 of title 33, Code of Federal Regulations is amended as follows:

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. A temporary section 100.35–0519 is added to read as follows:

§ 100.35–0519 Trent River, New Bern, North Carolina

(a) *Definitions.* (1) *Regulated area.* The waters of the Trent River bounded to the east by the Atlantic and East Carolina Railway Bridge, center point 35°06'0.06" North, longitude 77°02'31.0" West, and to the west by U.S. Route 70 twin highway bridges, center point latitude 35°05'46.0" North, longitude 77°02'49.0" West.

(2) *Coast Guard Patrol Commander.* The Coast Guard Patrol Commander is a commissioned, warrant, or petty officer who has been designated by the Commander, Coast Guard Group Fort Macon.

(b) *Special Local Regulations.* (1) Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area.

(2) The operator of any vessel in the immediate vicinity of this area shall:

(i) Stop the vessel immediately when directed to do so by any commissioned, warrant, or petty officer on board a vessel displaying a Coast Guard ensign.

(ii) Proceed as directed by any commissioned, warrant or petty officer on board a vessel displaying a Coast Guard ensign.

(3) Any spectator vessel may anchor outside of the regulated area specified in paragraph (a)(1) of these regulations, but may not block a navigable channel.

(c) *Effective Dates:* These regulations are effective for the following periods:
7:30 a.m. to 8:30 p.m., June 16, 1990
7:30 a.m. to 8:30 p.m., June 17, 1990.

Dated: May 4, 1990.

P. A. Welling,

Rear Admiral, U.S. Coast Guard Commander, Fifth Coast Guard District.

[FR Doc. 90–10982 Filed 5–10–90; 8:45 am]
BILLING CODE 4910–14–M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101–45

[FPMR Amdt. H–178]

Utilization and Disposal of Personal Property; Sale of Reconditioned Vehicles

AGENCY: Federal Supply Service, GSA.

ACTION: Final rule.

SUMMARY: Test programs have demonstrated that reconditioned vehicles produce a greater return at public sale than vehicles not reconditioned. This amendment establishes minimum requirements for reconditioning by holding agencies just prior to vehicles being offered for sale.

EFFECTIVE DATE: May 11, 1990.

FOR FURTHER INFORMATION CONTACT: Mr. Stanley M. Duda, Director, Property Management Division (703–557–1240).

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. The General Services Administration has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

List of Subjects in 41 CFR Part 101–45

Government property management, Reporting requirements, Surplus Government property.

Accordingly, chapter 101 of title 41 of the Code of Federal Regulations is amended as set forth below.

PART 101–45—SALE, ABANDONMENT, OR DESTRUCTION OF PERSONAL PROPERTY

1. The authority citation for part 101–45 continues to read as follows:

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c). §§ 101–45.400 to 101–45.405 also issued under sec. 307, 49 Stat. 880; 40 U.S.C. 304*l*.

Subpart 101–45.3—Sale of Personal Property

2. Section 101–45.309–12 is added to read as follows:

§ 101–45.309–12 Vehicle reconditioning.

(a) For the purpose of this section, "vehicle reconditioning" means restoring or improving the appearance of any motorized passenger or cargo vehicle designed primarily for highway use that is to be disposed of through surplus or exchange/sale procedures to the general public.

(b) To produce the maximum net proceeds, holding agencies shall determine, prior to sale, the appropriate level of reconditioning commensurate with the estimated fair market value of each vehicle scheduled for sale.

(c) Holding agencies shall arrange for the reconditioning to be accomplished just prior to the dates scheduled for public inspection and sale.

(d) For all motor vehicles above salvage condition or value, the minimum level of reconditioning required is as follows:

(1) *Driver and passenger compartment.* (i) Remove debris; (ii) Vacuum floors and seats; (iii) Clean dashboard, instrument panel, armrests, door panels, and rear shelf; (iv) Remove Government stickers or decals without marring surface; (v) Clean ashtrays and glove compartment; and (vi) Wash windows.

(2) *Trunk.* (i) Remove debris; (ii) Vacuum; and (iii) Position spare tire and tools.

(3) *Engine compartment.* (i) Remove debris; (ii) Replenish lubricants and coolant to required levels and replace missing caps/covers; and (iii) Charge battery, if necessary.

(4) *Exterior.* (i) Remove Government stickers or decals without marring paint finish; (ii) Wash exterior, including glass, door jambs, tires, and wheel rims/covers; and (iii) Inflate tires to recommended pressure.

(e) Additional reconditioning of selected motor vehicles should be considered when such action is expected to substantially improve the return on the sale of a vehicle. Generally, a return of $2.00 for each dollar invested should be estimated to justify additional reconditioning. Additional reconditioning should include some or all of the following:

(1) *Driver and passenger compartment.* (i) Shampoo seats,

dashboard, headliner, door panels, and floor covering; (ii) Spray-dye floor carpets and mats; (iii) Polish where appropriate; (iv) Apply vinyl/rubber reconditioners where appropriate; and (v) Replace missing knobs, nameplates, and light lenses and/or bulbs.

(2) *Trunk.* (i) Wash interior surface; and (ii) Spray-dye mats.

(3) *Engine compartment.* (i) Clean major surface areas (air cleaner cover, battery, etc.); (ii) Wash or steam clean, when necessary; (iii) Replace air and fuel filters; and (iv) Make minor adjustments and/or replacements to engine systems (electrical, fuel, cooling, etc.) to ensure that the vehicle will start and idle correctly during inspection by prospective purchasers.

(4) *Exterior.* (i) Rotate tires, including the spare, to ensure that the best tires are displayed on the vehicle. Properly inflate, clean, and apply rubber conditioner or black tire paint to all tires; (ii) Wash and blacken wheel splash shields; (iii) Apply touch-up paint to nicks and scratches; (iv) Wax and polish; (v) Replace missing or damaged molding, nameplates, lenses, caps, mirrors, antennas, and wheel covers; (vi) Repaint exterior of vehicle to original factory color if scrapes, dings, etc., are excessive; (vii) Repair minor body damage; (viii) Apply decorative molding and/or striping to add eye appeal; and (ix) Obtain State safety and/or emission control inspections, if required.

(f) Reconditioning, when possible, should be accomplished no earlier than the calendar week prior to the scheduled sale date.

(g) Agencies should contact the nearest GSA Federal Supply Service Bureau office for information regarding the availability of reconditioning services.

(h) The expense of reconditioning is the responsibility of the holding agency.

Dated: April 19, 1990.

Richard G. Austin,

Acting Administrator of General Services.

[FR Doc. 90-10870 Filed 5-10-90; 8:45 am]

BILLING CODE 6820-24-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611 and 672

[Docket No. 91050-0019]

Foreign Fishing; Groundfish of the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of continued effectiveness of inseason adjustment and response to comments.

SUMMARY: The Secretary of Commerce (Secretary) announces the continued effectiveness of an inseason adjustment that established quarterly allocations of pollock in the Gulf of Alaska. This action is necessary to announce the Secretary's decision in response to comments received regarding the inseason adjustment. It is intended to carry out management objectives contained in the Fishery Management Plan for Groundfish of the Gulf of Alaska.

FOR FURTHER INFORMATION CONTACT: Ronald J. Berg (Fishery Management Biologist, NMFS), 907-586-7230.

SUPPLEMENTARY INFORMATION:

Background

An inseason adjustment to the groundfish fishery has been implemented under section 50 CFR 672.22 that pertains to management of the pollock fishery in the Gulf of Alaska for the 1990 fishing year (55 FR 3223; January 31, 1990). Specifically, the inseason adjustment allows pollock to be harvested in the Western/Central Regulatory Area such that no more than 25 percent of the pollock total allowable catch (TAC) in the Western/Central Regulatory Area would be available in the first calendar quarter, and no more than 25 percent of the TAC, augmented by any portions that had not been harvested during preceding quarters, would be available during each of the subsequent three quarters. TAC is set at 70,000 metric tons (mt). Each quarter's apportionment is 17,500 mt. For the first quarter, the TAC was divided such that no more than 6,250 mt could be harvested in the Shelikof Strait District of the Western/Central Regulatory Area and the balance, or 11,250 mt, could be harvested elsewhere in the Western/Central Regulatory Area. The 11,250 mt was harvested and further directed fishing for pollock in the Western/Central Regulatory Area exclusive of the Shelikof Strait District was prohibited on January 29, 1990, unitl April 1, 1990 (55 FR 3408; February 1, 1990).

The inseason adjustment was made to prevent overfishing of pollock stocks, which are in a depressed condition. Additional information and reasons for the inseason adjustment are provided in the January 31, 1990, **Federal Register** notice. The inseason adjustment was made effective without affording a prior opportunity for public comment or delaying its effective date. This expedited process was necessary because fishing effort was expected to be so intense that the entire pollock TAC was likely to be harvested and even exceeded early in the year. Because the TAC is equal to the acceptable biological catch for pollock, means to prevent exceeding TAC were necessary to prevent overfishing of pollock stocks. Opportunity was provided to the public after the effective date of the inseason adjustment to submit comments. The end of the public comment period was February 12, 1990.

One letter of comments was received during the public comment period. Comments are summarized and responded to below.

Public Comments

Comment 1. The management measure to establish quarterly allocations has not been properly adopted as an amendment to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP), and, therefore, the Magnuson Fishery Conservation and Management Act (MFCMA) was violated.

Response: The management measure establishing quarterly allocations did not require an FMP amendment on which to base its implementation. Authority for the measure already exists in the FMP and in its implementing regulations. FMP section 4.2.4 *inseason adjustment of time and area* provides the authority to establish inseason adjustments in the fishery to prevent overfishing of groundfish stocks, including pollock. Section 672.22 of the regulations implements this authority. Paragraph 672.22(a)(1)(i) of the regulations stipulates that seasons may be closed or opened in all or part of a management area to prevent overfishing. Quarterly apportionments are season openings and closures in which the fishery is opened on the first day of each calendar quarter to allow 25 percent of the TAC to be harvested during that quarter. The season is closed when a quarter of the TAC is reached. Quarterly apportionments are authorized by the FMP and the regulations. Therefore, a FMP amendment was not required and the MFCMA was not violated.

Comment 2. This management measure tends to allocate fish away from the Seattle-based factory trawler fleet to Alaska interests, including shorebased processing plants located in Alaska, with the result that non-Alaskan interests are discriminated against.

Response: This management measure does not "allocate" the pollock fishery among user groups on the basis of state residency or on any other basis. Anyone, including an operator of a non-

Alaskan factory trawler, is free to fish for pollock throughout the open seasons. Anyone, including vessel operators who land pollock at processing plants located in Alaska, is prohibited from fishing for pollock during the closed periods. The conservation rationale for this measure has already been stated in the preamble to the January 31, 1990, **Federal Register** notice.

Comment 3. A quarterly allocation system is irrational because other less constraining measures were available to ensure that the TAC specified for pollock is not exceeded. These include holding back a reserve such as 20 percent of the TAC and implementation of additional monitoring measures.

Response: Inseason adjustments at section 50 CFR 672.22 include (1) closure, extension, or opening of a season in all or part of a management area; (2) modification of the allowable gear to be used in all or part of a management area; and (3) adjustment of a TAC if the biological status of a stock demonstrated that the TAC has been misspecified. Holding back a reserve is not authorized as an inseason adjustment under regulations implementing the FMP. FMP section 4.2.1.5 authorizes establishing a reserve for purposes of future allocation to U.S. fishermen instead of to foreign fishermen in case the allocation of a species to U.S. fishermen is inadequate. No foreign fishing is authorized in the Gulf of Alaska in 1990. Because U.S. fishermen were expected to harvest all of the available pollock TAC; establishment of a reserve was not authorized for that purpose. In any event, had a 20 percent reserve been established for purposes of slowing down the fishery, so much fishing effort was expected over a short time period that exceeding all of the TAC and not just 80 percent of the TAC was a real possibility.

The use of quarterly apportionments was a rational and effective way to accomplish the objectives of slowing down the fishery and obtaining more complete catch data, and also was determined to be the least restrictive on the fishery as a whole. Nonetheless, NMFS is pursuing additional monitoring measures to better manage the pollock fishery. NMFS intends to propose establishing daily reporting requirements for rapidly conducted fisheries to obtain total harvest information more quickly. Such measures may include requiring harvester vessels and/or processors to install ship-to-satellite communications equipment. Time periods required to obtain regulatory authority for such measures, to develop data processing measures, and for fishermen to comply with them are lengthy, usually adding up to a year or more. Time was not available to implement better monitoring measures at the beginning of the 1990 pollock fishery.

Comment 4. The Secretary has relied on an erroneous economic analysis of the total value of the fishery to base his decision to implement the quarterly allocation system by not adding the value of surimi, which was processed from fish carcasses, to the value of the roe product.

Response: NMFS correctly calculated that the entire pollock TAC established for the Western/Central Regulatory Area has a potential value of $27 million if it were harvested in a roe fishery. NMFS intends the term "roe fishery" to mean a fishery in which roe are stripped from female pollock carcasses and no further processing of carcasses or male pollock is done. Pollock fishing during the first quarter of 1989 in the Gulf of Alaska was largely a roe fishery. The pollock fishery during the first quarter of 1990 in the Bering Sea was also largely a roe fishery. At the time NMFS performed the economic analysis accompanying the inseason adjustment, NMFS had no information ensuring that a Gulf of Alaska pollock fishery conducted during the first quarter of 1990 would have included any pollock products, other than a roe fishery, if the entire TAC had been available. For comparison purposes, using the $27 million value to represent the potential value of a roe fishery was appropriate. However, even if NMFS had added the value of surimi to that of roe in the economic analysis, the Secretary would have taken the same action to prevent overfishing pollock stocks.

Having reviewed the above comments pursuant to § 672.22(b), the Secretary has determined that the effectiveness of the inseason adjustment will be continued.

Classification

This action is taken under § 672.22 and is in compliance with Executive Order 12291.

List of Subjects in 50 CFR Parts 611 and 672

Fisheries.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: May 7, 1990.

Richard H. Schaefer,

Director of Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 90-11070 Filed 5-10-90; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 55, No. 92
Friday, May 11, 1990

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 911

[Docket No. FV-90-148PR]

Limes Grown in Florida; Proposed Container Requirement Relaxation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule proposes relaxing the container requirements currently in effect under the marketing order for fresh Florida limes by allowing handlers to use another container for domestic shipments. The Florida Lime Administrative Committee (committee) unanimously recommended this action at its March 14, 1990 meeting, to provide handlers additional marketing flexibility. Container requirements provide that limes are packed in containers suitable for shipment to market, so that they remain in good condition during transit in the interest of growers, handlers, and consumers.

DATES: Comments must be received by June 11, 1990.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposed rule to: Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525-S, Washington, DC 20090-6456. Three copies of all written material shall be submitted, and they will be made available for public inspection at the office of the Docket Clerk during regular business hours. The written comments should reference the docket number, date, and page number of this issue of the Federal Register.

FOR FURTHER INFORMATION CONTACT: Gary D. Rasmussen, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525-S, Washington, DC 20090-6456, telephone (202) 475-3918.

SUPPLEMENTARY INFORMATION: This proposed rule is issued under Marketing Agreement and Marketing Order No. 911, both as amended (7 CFR part 91), regulating the handling of limes grown in Florida. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended [7 U.S.C. 601-674], hereinafter referred to as the Act.

This rule has been reviewed by the Department in accordance with Departmental Regulation 1512-1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this proposed action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act and rules issued thereunder are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are about 26 lime handlers subject to regulation under the marketing order for limes grown in Florida. In addition, there are about 230 lime growers in Florida. Small agricultural growers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual receipts of less than $500,000, and agricultural services firms are defined as those whose annual receipts are less than $3,500,000. The majority of the handlers and growers may be classified as small entities.

Section 911.329 (7 CFR 911.329) of the marketing order specifies container and pack requirements for fresh shipments of limes grown in Florida. These requirements specify which containers Florida lime handlers may use for shipping their fresh limes to market as well as the quantity of limes which must be packed in the containers. The requirements are designed to ensure that fresh limes are packed in suitable containers, so that they arrive in the marketplace in good condition. Providing the marketplace with good quality fruit is an important aspect of marketing and is in the interests of growers, handlers, consumers, and the trade.

The committee unanimously recommended that a container used for export shipments since 1986 be authorized for domestic shipments as well. The container was authorized under paragraph (a)(2)(i) of 911.329 of the marketing order by a final rule (51 FR 27517, August 1, 1986) to use for export shipments. This container has inside dimensions of 11⅞ by 7½ by 4¼ inches and must contain from five to six pounds of fruit.

The committee reports that this container has been found suitable for domestic shipments (the 48 contiguous States and the District of Columbia of the United States and Canada), based on the conclusions of recent marketing research. The research also found that a minimum of 5.5 pounds or 2.5 kilograms of fruit should be place in this container so that it is sufficiently filled. Therefore, the committee also unanimously recommended that the container requirement should be changed to specify that a minimum of 5.5 pounds or 2.5 kilograms of limes be placed in this container for both domestic and export shipments.

Thus, based on the committee's recommendation, paragraph (a)(2)(i) of 911.329 should be amended to read: "(i) Containers with inside dimensions of 7½ by 11⅞ by 4¼ inches: *Provided*, That such containers shall contain not less than 5.5 pounds or 2.5 kilograms net weight of limes."

The committee works with the Department in administering the marketing agreement and order. The committee meets prior to and during each season to consider recommendations for modification, suspension, or termination of the regulatory requirements for Florida limes. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department reviews committee recommendations and information submitted by the committee and other available information, and determines whether modification, suspension, or termination of the regulatory requirements would tend to effectuate the declared policy of the Act.

Some Florida lime shipments are exempt from container requirements. Handlers may make gift shipments in individually addressed containers of up to 20 pounds of limes each. Also, limes utilized in commercial processing are not covered by the container requirements.

The proposed action reflects the committee's and the Department's appraisal of the need to relax the container requirements applicable to shipments of fresh Florida limes. The Department's view is that the Proposed relaxation would benefit lime handlers. The container requirements over the past several years have helped keep limes in good condition during shipment to market. Although compliance with container requirements affects costs to handlers, these costs would be significantly offset when compared to the benefits resulting to growers, handlers, and consumers from the fruit being in good condition upon arrival in the marketplace.

Based on the above, the Administrator of the AMS has determined that this proposed action would not have a significant economic impact on a substantial number of small entities.

List of Subjects in 7 CFR Part 911

Florida, Limes, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, it is proposed that 7 CFR part 911 be amended as follows:

PART 911—LIMES GROWN IN FLORIDA

1. The authority citation for 7 CFR part 911 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Section 911.329 is amended by revising paragraph (a)(2)(i) to read as follows:

§ 911.329 Florida lime container regulation.

(a) * * *

(2) * * *

(i) Containers with inside dimensions of 7½ by 11⅞ by 4¼ inches: *Provided,* That such containers shall contain not less than 5.5 pounds or 2.5 kilograms net weight of limes.

* * * * *

Dated: May 7, 1990.

William J. Doyle,

Acting Deputy Director, Fruit and Vegetable Division.

[FR Doc. 90–11004 Filed 5–10–90; 8:45 am]

BILLING CODE 3410–02–M

7 CFR Part 929

[Docket No. FV–90–143PR]

Cranberries Grown in the States of Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York; Amendment of Rules and Regulations; Increase in Base Quantity Reserve

AGENCY: Agricultural Marketing Service.

ACTION: Proposed rule.

SUMMARY: This proposed rule invites comments on increasing the base quantity reserve for the 1990–91 crop year from the required minimum of 2.0 percent to 2.39 percent of the total base quantities currently issued to cranberry producers, in order to update and expand base quantities for the benefit of producers. This action would help to facilitate the appropriate and equitable operation of the cranberry marketing order.

DATES: Comments must be received by June 11, 1990.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposed rule. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, Room 2085–S, P.O. Box 96456, Washington, DC 20090–6456. Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Patricia A. Petrella, Marketing Specialist, Marketing Order Administration Branch, F&V, AMS, USDA, Room 2525–S, P.O. Box 96456, Washington, DC 20090–5456; telephone: (202) 475–3920.

SUPPLEMENTARY INFORMATION: This proposed rule is issued under Marketing Order No. 929 (7 CFR part 929), as amended, regulating the handling of cranberries grown in 10 states. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended, (7 U.S.C. 601–674); hereinafter referred to as the "Act."

This proposed rule has been reviewed by the Department in accordance with Departmental Regulation 1512–1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 30 handlers of cranberries subject to regulation under the cranberry marketing order and approximately 950 producers in the regulated area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual receipts for the last three years of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of handlers and producers of cranberries may be classified as small entities.

This proposed rule would increase the reserve base quantity from the minimum 2.0 percent required by the order to 2.39 percent, in order to update and adjust producers' base quantities for the 1990–91 crop year. This action was unanimously recommended by the Cranberry Marketing Committee (Committee), at its March 8, 1990, meeting. The Committee is the agency responsible for local administration of the cranberry marketing order.

Each year prior to May 1, the Committee considers its marketing policy for the coming season and estimates a marketable quantity of cranberries. Such quantity is the amount of cranberries deemed necessary to meet the season's total market demand and provide for an adequate carryover of cranberries to the next season. If annual cranberry production is expected to exceed the desired marketable quantity, and, if the Secretary finds, based on a recommendation of the Committee or from other available information, that limiting the quantity of cranberries that may be purchased or handled on behalf of producers would tend to effectuate the declared policy of the Act, the Secretary shall determine and establish the marketable quantity for that crop year. The marketable quantity is then apportioned among all eligible producers by applying an allotment percentage to each producer's base quantity pursuant to § 929.48 of the order. The allotment percentage is

established by the Secretary and equals the marketable quantity divided by the total of all producers' base quantities.

Such base quantities are issued to producers: (a) Based on their sales during the period 1968–69 through 1973–74; (b) as a result of transfers of base quantities from other producers; or (c) as part of an annual reserve of at least 2 percent of the total base quantities. The reserve is used annually for the issuance of base quantities to new producers and adjustments in base quantities for existing producers, with 25 percent made available for new growers and 75 percent made available for adjustments for existing producers. Any unallocated portion of the 25 percent available to new producers may, at the discretion of the Committee, be prorated among eligible existing producers on an equitable basis.

On March 8, 1990, the Committee held its annual winter meeting to formulate its marketing policy for the 1990–91 crop year. It determined that implementation of § 929.49 (the establishment of a marketable quantity and annual allotment) was not warranted. However, Committee members noted that cranberry production, as in recent years, was projected to exceed the total of all current producers' allotment bases. Therefore, they recommend that additional base be issued to all qualified new and existing producers to the full amount to which each producer requested, contingent on the producer's demonstrated ability to produce and sell cranberries. The increase would make additional base quantity available to new and existing producers by increasing the 2.0 percent minimum base quantity reserve, as currently provided, to 2.39 percent. This action would also aid in the updating of base quantities, which would be necessary for any future establishment of a marketable quantity and annual allotment.

The impact of this regulation on producers and handlers would not be significant because the change represents a relaxation of restrictions by increasing the total amount of base quantity available to producers. The amount of base quantity that would be issued represents the total amount of base quantity requested by qualified new and existing producers for the 1990–91 crop year. The Committee intends to distribute base quantity reserve to approximately six new producers and 335 existing producers.

Based on the available information, the Administrator of the AMS has determined that issuance of this proposed rule would not have a significant economic impact on a substantial number of small entities.

List of Subjects in 7 CFR Part 929

Cranberries, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 929 is proposed to be amended as follows:

PART 929—CRANBERRIES GROWN IN THE STATES OF MASSACHUSETTS, RHODE ISLAND, CONNECTICUT, NEW JERSEY, WISCONSIN, MICHIGAN, MINNESOTA, OREGON, WASHINGTON, AND LONG ISLAND IN THE STATE OF NEW YORK

1. The authority citation for 7 CFR part 929 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Section 929.153 is amended by revising the first sentence in paragraph (a) to read as follows:

Subpart—Rules and Regulations

§ 929.153 Base quantity reserve.

(a) *Establishment.* An annual reserve base quantity equal to 2 percent of total base quantities is hereby established: *Provided,* That, for the 1990–91 crop year, the reserve base quantity shall be 2.39 percent. * * *

* * * * *

Dated: May 7, 1990.

William J. Doyle,

Acting Deputy Director, Fruit and Vegetable Division.

[FR Doc. 90–11005 Filed 5–10–90; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 90–AGL–7]

Proposed Transition Area Establishment—Eaton Rapids, MI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish the Eaton Rapids, MI, transition area to accommodate a new VOR–A instrument approach procedure to Skyway Estates Airport, Eaton Rapids, MI. The intended effect of this action is to ensure segregation of the aircraft using approach procedures under instrument flight rules from other aircraft operating under visual flight rules in controlled airspace.

DATES: Comments must be received on or before June 25, 1990.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Asst. Chief Counsel, AGL–7, Attn: Rules Docket No. 90–AGL–7, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Assistant Chief Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

An informal docket may also be examined during normal business hours at the Air Traffic Division, System Management Branch, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: Douglas F. Powers, Air Traffic Division, Systems Management Branch, AGL–530, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694–7899.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 90–AGL–7". The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of the Assistant Chief Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with

FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 426–8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish a transition area airspace near Eaton Rapids, MI.

The transition area would be established to accommodate a new VOR–A instrument approach procedure to Skyway Estates Airport.

The development of the procedure requires that the FAA alter the designated airspace to insure that the procedure will be contained within controlled airspace. The minimum descent altitude for this procedure may be established below the floor of the 700-foot controlled airspace.

Aeronautical maps and charts would reflect the defined areas which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rules requirements.

Section 71.181 of part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6F dated January 2, 1990.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) as follows:

PART 71—[AMENDED]

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Eaton Rapids, MI [New]

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of Skyway Estates Airport (lat. 40°35'01" N., long. 84°39'05" W.) and within 1.5 miles each side of the Lansing, MI, VORTAC (lat. 42°43'03" N., long. 84°41'52" W.) 166 radial extending from the 5.5-mile radius area to 8.5 miles north northwest of Skyway Estates Airport; excluding the portions within the Charlotte, MI, and Lansing, MI, transition areas.

Issued in Des Plaines, Illinois, on April 30, 1990.

Teddy W. Burcham,

Manager, Air Traffic Division.

[FR Doc. 90–11012 Filed 5–10–90; 8:45 am]

BILLING CODE 4910–13–M.

RAILROAD RETIREMENT BOARD

20 CFR Parts 200, 209 and 234

RIN 3220–AA69

Railroad Employers' Reports and Responsibilities; Lump-Sum Payments

AGENCY: Railroad Retirement Board.

ACTION: Proposed rule.

SUMMARY: The Railroad Retirement Board (Board) proposes to amend parts 200, 209, and 234 of its regulations to reflect an amendment to the Railroad Retirement Act which provides for the payment of a lump-sum benefit under certain circumstances to employees who received separation allowances or severance pay which may not be used to increase a tier II benefit under the Act.

DATES: Comments must be submitted on or before June 11, 1990.

ADDRESSES: Secretary to the Board, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

FOR FURTHER INFORMATION CONTACT: Michael C. Litt, General Attorney, Railroad Retirement Board, Bureau of Law, 844 Rush Street, Chicago, Illinois 60611, (312) 751–4929 (FTS 386–4929).

SUPPLEMENTARY INFORMATION: The Railroad Retirement Act was recently amended by the Railroad Unemployment Insurance and Retirement Improvement Act of 1988, Public Law 100–647, 102 Stat. 3342. Section 7301 of the latter Act adds a new section 6(e) to the Railroad Retirement Act which provides for a lump-sum payment, the Separation Allowance Lump-Sum Payment, which is equal to the amount of an employee's railroad retirement taxes paid under section 3201(b) of the Internal Revenue Code (tier II taxes) which have been deducted from separation or severance payments which were not creditable for purposes of computing the employee's tier II benefit under the Railroad Retirement Act because of the employee's cessation of employment. This lump sum is to be paid upon entitlement to an annuity under the Railroad Retirement Act to an employee with ten years o service if the separation or severance payments were not used in the computation of his or her tier II benefit under the Railroad Retirement Act because payments were made after he or she left the employment of his or her railroad employer. If the employee dies before his or her annuity begins to accrue, the lump sum is payable to his or her survivors. The provision for this benefit applies retroactively to separation and severance payments made after 1984.

In addition, the Board proposes to amend part 200, General Administration, and part 209, Railroad Employers' Reports and Responsibilities, to add a reference to new form, number BA–9, Report of Separation Allowances or Severance Pay Subject to Tier II Taxation, designed to obtain the information required by the Board to compute and pay the lump-sum benefit. Part 200 is also proposed to be amended by adding references to new forms BA–10, Report of Sick Pay and Miscellaneous Compensation Subject to Tier I Tax, and G–440, Annual and Quarterly Indication/Specification Sheet, used to transmit compensation reports.

The Board has determined that this is not a major rule for purposes of Executive Order 12291. Therefore, no regulatory analysis is required. The information collections imposed by these amendments have been approved by the Office of Management and

Budget under control numbers 3220–0173 and 3220–0175.

List of Subjects in 20 CFR Parts 200, 209, and 234

Railroad employees, Railroad retirement, Reporting and recordkeeping requirements.

PART 200—GENERAL ADMINISTRATION

1. The authority citation for part 200 continues to read as follows:

Authority: 45 U.S.C. 231f(b)(5) and 45 U.S.C. 362; § 200.4 also issued under 5 U.S.C. 552; § 200.5 also issued under 5 U.S.C. 552a; § 200.6 also issued under 5 U.S.C. 552b; and § 200.7 also issued under 31 U.S.C. 3717.

2. Section 200.3(a)(2)(ii) is amended by adding after the reference to G–423 and before the reference to G–476c the following:

G–440—*Annual and Quarterly Report Indication/Specification Sheet.* Used by an employer to transmit reports of compensation

3. Section 200.3(a)(5) is amended by adding after the reference to BA–5 and before the reference to DC–1 the following:

BA–9—*Report of Separation Allowances or Severance Pay Subject to Tier II Taxation.* Used by an employer to report the amount of separation allowances paid.

BA–10—*Report of Sick Pay and Miscellaneous Compensation Subject to Tier I Tax.* Used by an employer to transmit reports of compensation.

4. Table 1A in § 200.3(b) is amended by adding after the entry for BA–5 and before the entry for DC–1 the following entries:

TABLE 1A.—RAILROAD RETIREMENT BOARD APPLICATION AND RELATED FORMS

* * * * *		
BA–9	209.14	3220–0173
BA–10	209.13	3220–0175
* * * * *		

PART 209—RAILROAD EMPLOYERS REPORTS AND RESPONSIBILITIES

5. The authority citation for part 209 is revised to read as follows:

Authority: 45 U.S.C. 231f.

6. Part 209 is amended by adding a new § 209.14, to read as follows:

§ 209.14 Report of separation allowances subject to tier II taxation.

For any employee who is paid a separation payment, the employer must file a report of the amount of the separation allowance. This report shall be submitted to the Director of Compensation and Certification on or before the last day of the month following the end of the calendar quarter in which payment is made. The reports may be made on magnetic tape, punch cards or the form prescribed by the Board as described in § 200.3(a)(5) of this chapter. The reports must be accompanied by a report indication/specification sheet prescribed by the Board as described in § 200.3(a)(2)(ii) of this chapter.

(Approved by the Office of Management and Budget under control number 3220–0173)

PART 234—LUMP-SUM PAYMENTS

7. The authority citation for part 234 continues to read as follows:

Authority: 45 U.S.C. 231f.

8. Part 234 is amended by redesignating the current subpart F, consisting of §§ 234.60 through 234.62, as subpart G, and by adding a new subpart F to read as follows:

Subpart F—Tier II Separation Allowance Lump-Sum Payment

§ 234.55 General.

Under the Railroad Retirement Act certain railroad employees who have received separation or severance payments may be entitiled to a lump-sum payment if tier II railroad retirement taxes were deducted from these payments. This part sets forth the conditions for entitlement to the lump-sum payment and explains how the payment is computed.

§ 234.56 Persons to whom a separation allowance lump-sum payment is payable.

(a) An employee who has completed 10 years of service at the time of his or her retirement or death and who has received on or after January 1, 1985, a separation allowance or severance payment (see § 210.11 of this chapter) which would have been used to increase his or her tier II benefit, except for the fact that he or she was neither in an employment relation to one or more employers as defined in part 204 of this chapter nor an employee representative (see part 205 of this chapter), shall be entitled to a lump sum in the amount provided for in § 234.58.

(b) If an employee, otherwise eligible for the lump sum provided for in this section, dies before he or she becomes entitled to a regular annuity or before he or she receives payment of the lump sum, the lump sum is payable to the employee's widow or widower who will not have died before receiving payment. If the employee is not survived by a widow or widower who will not have died before receiving payment, the lump sum is payable to the employee's survivors in the same order of priority as shown for the residual lump-sum (RLS) in § 234.44.

§ 234.57 Effect of payment on other benefits.

The tier II separation allowance lump-sum payment has no effect on the payment of other benefits.

§ 234.58 Computation of the separation allowance lump-sum payment.

The separation allowance lump-sum payment is calculated as follows:

(a) Determine the amount of the compensation due to the receipt of separation or serverance pay that could not be considered in the computation of tier II;

(b) Multiply this amount by the rate or rates of tax imposed by section 3201(b) of the Internal Revenue Code of 1954 or 1986 on the compensation (tier II tax); and

(c) The product is the amount of the separation allowance lump-sum payment.

Example. In January of 1988 an employee with 10 years of railroad service relinquished his seniority rights in order to receive a separation allowance of $20,000, thereby severing his employment relation. This was the only creditable railroad compensation earned by the employee in 1988. Both the employer and employee would have paid their share of railroad retirement taxes on this amount. With respect to the employee tier II tax, the tax rate for 1988 was 4.9% under section 3201(b) of the Internal Revenue Code of 1986. Although the full $20,000 was creditable under the Railroad Retirement Act for tier I benefit computation purposes, only one month's compensation, $2,800, one-twelfth of the annual tier II earnings base of $33,600 for 1988, was creditable for tier II benefit purposes. This is because section 3(i)(4) of the Railroad Retirement Act does not permit crediting of compensation for tier II computation purposes after the employment relation has been severed. Under the lump-sum provision discussed above, the employee in this example would, upon award of his employee annuity, receive a payment of $842.800 ($20,000 minus $2,800, the amount of separation allowance that was creditable, or $17,200 times 4.9%)

Dated: May 4, 1990.

By Authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 90–10918 Filed 5–10–90; 8:45 am]

BILLING CODE 7905–01–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. S-048]

RIN 1218-AA52

Logging Operations

AGENCY: Occupational Safety and Health Administration (OSHA), Department of Labor.

ACTION: Proposed rule; notice of hearing; extension of written comment period.

SUMMARY: This notice schedules informal public hearings to address issues concerning the notice of proposed rulemaking that OSHA published on May 2, 1989 (54 FR 18798) on Logging Operations. It also extends the period for submission of written comments on the proposed rule.

DATES: The informal public hearings are scheduled to begin in Washington, DC, on July 24, 1990, at 9:30 a.m., and may continue for more than one day based on the number of notices of intention to appear. Once all parties who wish to do so have testified in Washington, DC, the hearing will be recessed and reconvened in Portland, Oregon, on August 21, 1990, at 9:30 a.m., for the receipt of testimony from parties who prefer to testify at that location.

Additional written comments on the proposed standards and notices of intention to appear at the informal public hearings, must be received by June 29, 1990. Testimony and documentary evidence which will be offered into the Washington, DC, or into the Portland, Oregon, hearing record must be received by July 9, 1990.

ADDRESSES: Written comments must be submitted in quadruplicate to the Docket Office, Docket Number S-048, room N-2625, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210, (202) 523-7075.

Four copies of the notice of intention to appear, testimony and documentary evidence which will be offered into the hearing record must be sent to Mr. Tom Hall, Division of Consumer Affairs, Occupational Safety and Health Administration, U.S. Department of Labor, room N-3647, 200 Constitution Avenue NW., Washington, DC 20210, (202) 523-8615. For additional information on how to submit notices of intention to appear, see the section on public participation below.

The hearings will be held in the Departmental Auditorium in the Frances Perkins Building, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC, 20210 and at the Shilo Inn Suites Convention Center, 11707 NE. Airport Way, in Portland, Oregon 97220.

FOR FURTHER INFORMATION CONTACT:

Hearing: Mr. Tom Hall, Division of Consumer Affairs, Occupational Safety and Health Administration, U.S. Department of Labor, room N3647, 200 Constitution Avenue NW., Washington, DC 20210, (202) 523-8615.

Proposal and Hearing Issues: Mr. James Foster, Occupational Safety and Health Administration, U.S. Department of Labor, room N3647, 200 Constitution Avenue NW., Washington, DC 20210 (202) 523-8151.

SUPPLEMENTARY INFORMATION: On May 2, 1989, OSHA published a Notice of Proposed Rulemaking (NPRM) which proposed new standards regulating logging operations (54 FR 18798). The comment period and the time for requesting a hearing expired on July 31, 1989. During that period, OSHA received 73 comments, including several requests for a public hearing. Accordingly, pursuant to section 6(b)(3) of the OSH Act, the Occupational Safety and Health Administration is scheduling informal public hearings on the proposed rule for logging operations to begin on July 24, 1990, in Washington, DC, and on August 21, 1990, in Portland, Oregon. Through these hearings the Agency expects to obtain testimony and other information pertinent to any aspect of the proposal, including issues raised in the comments, in the hearing requests, in the notices of intention to appear, and at OSHA's initiative. In particular, OSHA solicits testimony, with supporting information, on the issues presented below.

Issues

1. *Training.* Proposed § 1910.266(d) would require that employees be trained at the time of their initial assignment, prior to starting work; at least annually thereafter; and whenever changes in job assignment will expose them to new or additional hazards. Many commenters endorsed the importance of the proposed requirements. Some commenters suggested a delay in the effective date of the training requirements to allow time for the establishment of training mechanisms. Other commenters inferred that there was no need for delay. Public comment is invited on the issue of whether or not a delay in the effective date of the training requirements is necessary, and how much time would be necessary.

Some commenters were concerned that the proposed training requirements did not adequately specify what OSHA would consider as sufficient training. Questions were asked regarding which individuals or organizations could perform the training, whether there was a specific amount of time required, whether classroom lectures were necessary, and what materials should be used in the training. OSHA seeks additional comment on the proposed, performance-oriented training provisions. The Agency also requests the submission of existing training materials and aids, such as course outlines and videos, as well as any information and data regarding their relative success.

Several commenters questioned the need for OSHA's proposed requirement that all newly hired employees, regardless of previous experience, be trained by their new employer and be required to be under the close guidance of an experienced worker until they can demonstrate they can perform their work in a safe manner. OSHA requests comment on the extent of training and supervision appropriate for newly hired experienced loggers.

2. *Personal Protective Equipment.* Proposed § 1910.266(e)(1) (i)-(vi) would require that employers provide appropriate personal protective equipment to employees and ensure that it is worn. The proposed rules would specifically require that certain loggers be provided wire rope-handling gloves, leg protection, and boots or shoes. The proposal also states that employers would be required to provide helmets, eye or face protection, and respiratory protection in accordance with other pre-existing OSHA standards. OSHA received many comments that although the use of the proper protective equipment must be ensured by employers, they should not be required to pay for this equipment, especially gloves, boots and helmets. Additional comment is requested on this issue.

Also of relevance to these personal protective equipment provisions are the August 16, 1989, proposed amendments to the Agency's existing standards regulating the design, selection and use of eye, face, head and foot protection in general industry, including logging (54 FR 33832). The record compiled in that rulemaking (Docket No. S-060) will be incorporated by reference into the logging rulemaking record.

3. *Leg Protection.* Proposed § 1910.266(e)(1)(ii) would require (with limited stated exceptions) that ballistic nylon or equivalent protection covering each leg from upper thigh to boot top or shoe top be worn by employees whose assigned duties require them to use a chain saw. Numerous comments supported the use of leg protection.

Public comment is requested on three issues, each raised by several commenters.

(a) Several commenters expressed a need for specification requirements, especially with regard to the strength of the leg protection. OSHA's proposal is perfomance based, as are the requirements of Alaska, Oregon and Washington which use the performance language "will protect". However, some regulatory authorities have developed specification requirements for this equipment. For example, Quebec, Canada has developed standards and testing methods for chainsaw leg protection (Exhibit 5–60) and the United States Department of Agriculture, Forest Service has purchasing specifications for chainsaw chaps (Exhibit 4–32). Comment is requested on the appropriateness of more specific requirements concerning leg protection equipment.

(b) A few commenters expressed concern that the OSHA proposal requiring leg protection extending to boot top or shoe top could cause a mobility problem for cutters. They suggested that the protection extend only a few inches below the knee. Public comment is invited on this issue.

(c) A few commenters expressed concern that in some situations heat and humidity would create problems for leg protection users that would outweigh the benefits. Public comment is invited on this issue.

4. *First Aid.* Proposed § 1910.266(e)(1)(x) would require first aid training for all supervisors and fellers, and that, in addition, at least one such trained person be in each operating area. Several commenters stated that additional employees, or all employees, should be trained in first aid due to the severity of many logging injuries and the often isolated conditions of logging operations. Some commenters thought that training each feller in first aid would be excessive. Other commenters stated that cardiopulmonary resuscitation (CPR) should be included in first aid training. Public comment is invited on the appropriate number of employees that need first aid training and on the inclusion of specific first aid skills such as CPR.

5. *Visual and Audible Contact.* Proposed § 1910.266(e)(4)(i) would require (with certain exceptions) that employees work in a position or location within visual or audible signal contact of another person who can render assistance in case of emergency. (Motor noise is not acceptable as a signal.) Several commenters were concerned that this would be difficult with small work crews of three workers or less. Some suggested an interval of 15 or 20 minutes as the maximum break in visual or audible contact. Most commenters felt that contact was very important. Additional public comment is invited concerning this issue.

6. *Chain Saw Protective Devices.* Proposed § 1910.266(e)(5)(i) would require that chain saws be frequently inspected to ensure, among other things, "that chainbrakes and all other manufacturer's safety features remain operational." The proposal as written would not require chain saws to be equipped with chainbrakes or other specific safety devices designed to prevent or mitigate operator laceration injuries caused by chain saws kickback or other accidents. The proposal would only have required that any such safety features that are on the saw remain operational. Requirements for the guarding of chain saws are already contained in OSHA's general performance standard governing machine guarding, 29 CFR 1910.212.

Although the logging operations proposal did not require specific chain saw protective devices, OSHA requested public comment on the effectiveness of chainbrakes and other safety devices and features. OSHA received numerous submissions regarding the relative effectiveness of chain saw safety features. A number of comments were received, especially from chain saw manufacturers, opposing the impression given by the language of the proposed provision that OSHA would require chainbrakes on all chain saws. Some commenters, such as the National Institute for Occupational Safety and Health and some major logging companies, wrote supporting a requirement for chainbrakes.

It should be noted that OSHA's long standing interpretation of the machine guarding standard, 29 CFR 1910.212, is that is applies to chain saws and requires point of operation guarding. This standard was adopted by OSHA as an established Federal standard under the Walsh-Healey Public Contracts Act, 41 U.S.C. § 35, predating the enactment of the Occupational Safety and Health Act of 1970 (OSH Act). OSHA is aware that there are a number of chain saw features currently available that are designed, at least in part, to reduce the likelihood of operator lacerations from the saw's chain. However, bar tip guards and chainbrakes are more likely to meet the guarding requirements of 29 CFR 1910.212 because they are designed to prevent the occurrence of kickback, or stop the chain in the event of kickback, respectively.

Most of those opposing mandatory chainbrake requirements have suggested that OSHA adopt the 1985 American National Standards Institute's (ANSI) voluntary standard, ANSI B175.1–1985, "Gasoline-powered chainsaws—safety requirements." (Exhibit 4–66). The ANSI standard recommends, among other things, that saws below 3.8 cubic inch displacement (c.i.d.) be equipped with, in addition to a front hand guard, any combination of two or more separate features designed to reduce the risk of injury from kickback, such as a bar tip guard, a chainbrake, a low-or reduced-kickback saw chain, and a reduced-kickback guide bar. Chain saws above 3.8 c.i.d. would need, in addition to a front hand guard, at least one such feature designed to reduce kickback.

Even though OSHA feels that the safety features mentioned in the ANSI standard are very desirable in helping to reduce the degree of kickback, features such as low-kickback guide bars and reduced-kickback chains cannot be considered as a point of operation guarding because in the event of kickback they do not stop the moving chain. Additional public comment is requested on the adequacy of the various chain saw safety devices and guards and the appropriate regulatory action for OSHA.

7. *Operator's Manual.* Proposed § 1910.266(e)(6)(i) would require an operator's manual or set of operator's instructions with each machine. Several comments expressed concern that vandalism and deterioration would limit the practicality of the proposed requirement. Other comments recommended that the manuals be kept on the job site or at a nearby office, and that the manual be included in the training of machine operators. Public comment is invited on the issue of having the manual or operating instructions with each machine and employer's experience in obtaining copies of manuals from manufacturers.

8. *Riders.* Proposed § 1910.266(e)(6)(xiii) would require that riders or observers not be permitted on machines unless they are provided seating and protection equivalent to that provided to the operator. There was a considerable amount of comment on this proposed requirement. Some commenters supported this requirement as an absolute, no exception policy. Others stressed the need for an exception for training purposes, when both trainer and trainee may ride the equipment. Several commenters suggested a very limited exception under restricted conditions for training purposes (such as on level terrain or when actual work is not being conducted during the training).

Additional public comment is invited concerning this issue.

9. *Equipment Protective Devices.* Proposed § 1910.266(f)(1)(i) and (iii) would require rollover protective structures (ROPS) and falling object protective structures (FOPS) for certain specifically listed equipment. A few varying comments were received concerning retrofitting of ROPS and FOPS on existing equipment. Additional public comment is requested concerning the need, feasibility and cost to retrofit older machines with ROPS and FOPS.

Comments were also received from forestry equipment manufacturers that a number of Society of Automotive Engineer (SAE) standards referenced in the proposed equipment provisions have been superseded by newer versions. Recommendations were made that the latest currently available editions of any applicable standards by SAE, ANSI or other appropriate professional or national consensus organization be referenced by the logging rules, as well as similar standards developed by the International Organization for Standardization (ISO). Public comment is requested on the appropriateness of incorporating these standards into the logging rules by reference.

10. *Manual Felling.* Several interested parties commented on proposed § 1910.266(g)(2). Several comments concerning paragraph (g)(2)(iii) stated a need to except saplings from the proposed undercut requirement. Others commented on paragraph (g)(2)(v) which would require that the backcut be above the level of the horizontal cut of the undercut. One contended that the backcut should be made at the same level as the notch of the undercut to protect the hinge. Other commenters felt that the undercut and backcut requirements in paragraph (g)(2)(iii) through (v) should allow for exceptions due to variations in three and site factors. Public comment is requested on these issues.

Public Participation

Written Comments

Interested persons are invited to submit written comments on the issues raised in the proposal and in this hearing notice. Information that has previously been submitted regarding these issues remains part of the rulemaking record and should not be resubmitted. Written comments must be received by June 29, 1990, and submitted in quadruplicate to the Docket Office, Docket Number S–048, room N–2625, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210. The telephone number of the Docket Office is (202) 523–7894, and its hours of operation are 8:15 a.m. to 4:45 p.m., Monday through Friday, except Federal Holidays. Comments limited to 10 pages or less in length may also be transmitted by facsimile to (202) 523–5046 (or for FTS to 8–523–5046), provided that the original and 4 copies of the comment are sent to the Docket Officer immediately thereafter. Written submissions must clearly identify the issues raised in the proposal or this notice which are addressed and the position taken on each issue.

All materials submitted will be available for inspection and copying at this address. All timely submissions will be part of the record of the proceeding.

Public Hearings

Pursuant to section 6(b)(3) of the Act, an opportunity to submit oral testimony concerning the issues raised by the proposed standard, comments, requests for hearing, and notices of intention to appear will be provided at informal public hearings scheduled to begin at 9:30 a.m. at places and on dates as follows:

Washington, DC: July 24, 1990, Frances Perkins Department of Labor Building, Auditorium, 200 Constitution Avenue NW., Washington, DC 20210.

Portland, Oregon: August 21, 1990, Shilo Inn Suites Convention Center, 11707 NE. Airport Way, Portland, Oregon 97220, Telephone (503) 252–7500.

Notice of Intention to Appear

All persons who wish to participate at the hearing must file in quadruplicate a notice of intention to appear, received by June 29, 1990, addressed to Mr. Tom Hall, OSHA Division of Consumer Affairs, Docket S–048, room N–3647, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210. The notice of intention to appear also may be transmitted by facsimile to (202) 523–5986 (or for FTS to 8–523–5986), provided that the original and 4 copies of the notice are sent to the above address immediately thereafter.

The notices of intention to appear, which will be available for inspection and copying at the OSHA Docket Office, room N–2625, 200 Constitution Avenue NW., Washington, DC 20210, telephone (202) 523–7894, must contain the following information:

(1) The name, address, and telephone number of each person to appear;

(2) The capacity in which the person will appear;

(3) The approximate amount of time requested for the presentation;

(4) The specific issues that will be addressed;

(5) A statement of the position that will be taken with respect to each issue addressed;

(6) Whether the party intends to submit documentary evidence, and if so, a brief summary of that evidence; and

(7) At which of the hearings the party wishes to testify.

Filing of Testimony and Evidence Before Hearing

Any party requesting more than 10 minutes for a presentation at the hearings, or who will submit documentary evidence, must provide in quadruplicate the complete text of the testimony, including any documentary evidence to be presented at the hearings, to the OSHA Division of Consumer Affairs. This material must be received by July 9, 1990. It will be available for inspection and copying at the OSHA Docket Office. Each such submission will be reviewed in light of the amount of time requested in the notice of intention to appear. In those instances where the information contained in the submission does not justify the amount of time requested, a more appropriate amount of time will be allocated and the participant will be notified of that fact.

Any party who has not substantially complied with this requirement may be limited to a 10-minute presentation. Any party who has not filed a notice of intention to appear may be allowed to testify, as time permits, at the discretion of the Administrative Law Judge.

OSHA emphasizes that the hearings are open to the public, and that interested persons are welcome to attend. However, only persons who have filed proper notices of intention to appear at the hearing will be entitled to ask questions and otherwise participate fully in the proceeding.

Conduct and Nature of Hearings

The hearings will commence at 9:30 a.m., on July 24, 1990, in Washington, DC and continue in Portland, Oregon at 9:30 a.m. on August 21, 1990. At those times, any procedural matters relating to the proceeding will be resolved. The informal nature of OSHA rulemaking hearings is established in the legislative history of section 6 of the Act and is reflected by the OSHA hearing regulations (see 29 CFR 1911.15(a)). Although the presiding officer is an Administrative Law Judge and questioning by interested persons is allowed on crucial issues, it is clear that the proceeding shall remain informal and legislative in type. The purpose of the hearing is to provide an opportunity for effective oral presentation by

interested persons which can be carried out expeditiously and in the absence of rigid procedures which might unduly impede or protract the rulemaking process.

The hearings will be conducted in accordance with 29 CFR part 1911. The hearing will be presided over by an Administrative Law Judge who will have all the powers necessary and appropriate to conduct a full and fair informal hearing as provided in 29 CFR part 1911 including the powers:

(1) To regulate the course of the proceedings;

(2) To dispose of procedural requests, objections and comparable matters;

(3) To confine the presentation to the matters pertinent to the issues raised;

(4) To regulate the conduct of those present at the hearing by appropriate means;

(5) In the judge's discretion, to question and permit the questioning of any witness and to limit the time for questioning; and

(6) In the judge's discretion, to keep the record open for a reasonable, stated time to receive written information and additional data, views, and arguments from any person who has participated in the oral proceedings.

Following the close of the hearing, the presiding Administrative Law Judge will certify the record of the hearing to the Assistant Secretary of Labor for Occupational Safety and Health. The Administrative Law Judge does not make or recommend any decisions as to the content of the final standard.

The proposed standard will be reviewed in light of all testimony and written submissions received as part of the record and a standard will be issued based on the entire record of the proceeding, including the written comments and data received from the public.

Authority and Signature

This document was prepared under the direction of Gerard F. Scannell, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210.

It is issued under section 6(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655), Secretary of Labor's Order No. 1–90 (55 FR 9033) and 29 CFR part 1911.

Signed at Washington, DC on this 4th day of May 1990.

Gerard F. Scannell,

Assistant Secretary of Labor.

[FR Doc. 90–11036 Filed 5–10–90; 8:45 am]

BILLING CODE 4510–26–M

Mine Safety and Health Administration

30 CFR Parts 56, 57, 58, 70, 71, 72, and 75

Air Quality, Chemical Substances, Respiratory Protection Standards; Public Hearings; Extension of Comment Period

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Extension of comment period; notice of public hearings.

SUMMARY: The Mine Safety and Health Administration (MSHA) will hold the first of a series of public hearings on its August 28, 1989, proposed rule addressing air quality, chemical substances and respiratory protection in mining. The hearings will be held in Denver, Colorado, and Pittsburgh, Pennsylvania. Each hearing will cover the major issues associated with establishing permissible exposure limits (PELs) for nitrogen dioxide (NO_2), nitric oxide (NO), carbon monoxide (CO), and sulfur dioxide (SO_2); exposure monitoring; abrasive blasting; drill dust control; dangerous atmospheres; and prohibited areas for food and beverages. This notice also extends the time for public comment on provisions in the proposed rule addressing carcinogens, asbestos construction work, means of control, respiratory protection and medical surveillance.

DATES: All requests to make oral presentations for the record should be submitted at least 5 days before the hearing date. Immediately before the hearing, any unalloted time will be made available to persons making later requests. The public hearings will be held Monday, June 4, 1990, and Thursday, June 7, 1990. Both hearings will begin at 9 a.m. If the Agency considers it necessary, the hearing may be extended an additional day.

The comment period on provisions in the proposed rule concerning carcinogens, asbestos construction work, means of control, respiratory protection, and medical surveillance will close on June 29, 1990.

ADDRESSES: The hearings will be held in Pittsburgh, Pennsylvania, and Denver, Colorado, at the following locations:

June 4, 1990, Stapleton Plaza Hotel, Aztec I Room, 3333 Quebec Street, Denver, Colorado 80207.

June 7, 1990, Holiday Inn-Airport, Gallery Room, 1406 Beers School Road, Coraopolis, Pennsylvania 15108.

Send requests to make oral presentations to: Mine Safety and Health Administration, Office of Standards, Regulations and Variances, Room 631, 4015 Wilson Boulevard, Arlington, Virgina 22203.

FOR FURTHER INFORMATION CONTACT: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, MSHA, (703) 235–1910.

SUPPLEMENTARY INFORMATION: On August 29, 1989, MSHA published a proposed rule to revise its standards for air quality, chemical substances, and respiratory protection for coal, metal, and nonmetal mines (54 FR 35760). The Agency initially scheduled the written comment period for the proposed rule to close on November 27, 1989. On October 19, 1989, MSHA extended the comment period to March 2, 1990 (54 FR 43026) in response to requests from the mining community. On January 25, 1990, the Agency set three separate comment periods for different provisions in the proposal and announced its intent to hold a series of three sets of public hearings. The comment period for the first group of provisions closed on March 2, 1990. These provisions are: the permissible exposure limits for nitrogen dioxide (NO_2), nitric oxide (NO), carbon monoxide (CO), and sulfur dioxide (SO_2); exposure monitoring; abrasive blasting; drill dust control; dangerous atmospheres; and prohibited areas for food and beverages.

MSHA had scheduled the comment period on carcinogens, asbestos construction work, means of control, respiratory protection, and medical surveillance to close on June 1, 1990. MSHA is extending this date to June 29, 1990, to allow sufficient time for interested parties to participate in the June 4 and 7 hearings and prepare comments on the second group of provisions in the proposal. The Agency encourages all parties interested in making comments to do so by June 29. Although the rulemaking record will remain open until all hearings have been held, MSHA intends that the substantive issues on these provisions be fully discussed during this comment period and hearing.

The purpose of the public hearings is to receive relevant comments and respond to questions about the proposed rules. The hearings will be conducted in an informal manner by a panel of MSHA officials. Although formal rules of evidence will not apply, the presiding official may exercise discretion in excluding irrelevant or unduly repetitious material and questions.

The session will begin with an opening statement from MSHA, followed by an opportunity for members of the public to make oral presentations. The hearing panel will be available to

answer relevant questions. At the discretion of the presiding official, speakers may be limited to a maximum of 20 minutes for their presentations. Verbatim transcripts of the proceedings will be taken and made a part of the rulemaking record. Copies of the hearing transcripts will be made available to the public for review.

The record will remain open until December 1990. Therefore, MSHA will continue to accept additional written comments and other appropriate data from any interested party, including those not presenting oral statements.

Issues

Commenters posed several questions about provisions contained in the proposed rule. Of particular concern to commenters are the issues discussed below. MSHA particularly requests comments on these issues during the hearings in addition to any other aspects of the provisions addressed in this phase of the rulemaking.

A. Permissible Exposure Limits for Nitrogen Dioxide, Carbon Monoxide, Sulfur Dioxide, and Nitric Oxide

The proposed rule includes a formula for computing the permissible exposure limit for a substance as a time-weighted average (TWA) based on an 8-hour day. For work shifts longer than 8 hours (novel work schedules), the proposal would require the TWA to be adjusted downward in proportion to the hours worked. The formula adjusts the dose received by the miner to the same amount that would have been received in 8 hours at the TWA listed for the substance. Some commenters suggested that the novel work schedule formula does not account for such variables as differences in acute, non-acute effects and cumulative effects and varied work schedules such as 7-day work week cycles.

The proposed rule also includes ceilings and short-term exposure limits (STEL) for substances with fast-acting or highly irritating effects. A STEL would be equal to a 15-minute time-weighted average exposure. A ceiling could not be exceeded at any time. Some commenters stated that certain STELs for time periods other than 15 minutes might be appropriate.

MSHA would continue to require mixed exposure limits (MELs) for substances that act upon the same target organ. Currently the Agency sets mixed exposure limits through incorporation by reference of the American Conference of Governmental Industrial Hygienists (ACGIH) *Threshold Limit Values (TLVs™) Booklet* (1972, 1973). The 1989–90 ACGIH *TLV™ Booklet* continues to recommend mixed exposure limits. Mixed exposure limits address exposures to two or more harmful substances that act on the same organ system. The Occupational Safety and Health Administration (OSHA) also requires computation of mixed exposure limits (29 CFR 1910.1000). MSHA received many comments regarding mixed exposure limits. Some commenters maintain that it is technologically infeasible to measure the potentially low ambient levels for individual substances that may exist in a mixture. Another commenter suggested that a mixed exposure limit be included for work schedules that are longer than 8 hours.

MSHA proposed two alternative permissible exposure limits for nitrogen dioxide (NO_2)—(1) a 1-ppm 15-minute STEL or (2) a 3-ppm TWA and a 5-ppm STEL. MSHA's current PEL is 5 ppm ceiling. OSHA has set a 1-ppm STEL for general industry based on studies indicating an increased airway resistance from NO_2 exposure and on the National Institute for Occupational Safety and Health's (NIOSH) recommended exposure limit. The ACGIH recommends a 3-ppm TWA/5-ppm STEL for NO_2. The proposal would require operators to use feasible engineering or administrative controls to meet the new limit.

Most commenters opposed the 1-ppm STEL for NO_2. They stated that it is infeasible to lower existing exposures in mining to this level, especially in underground mining. They also questioned the health basis for such a limit. Other commenters favored adoption of the 1-ppm STEL, stating that the lower limit is necessary to protect miners from hazards of chronic lung disease, reduce the severity of respiratory infections, and possible reduce the risk of lung cancer. These commenters stated that feasibility is not an issue. MSHA requests that commenters address the health basis for either limit and the technological and economical feasibility of complying with the standard in mining.

Most commenters supported MSHA's proposed PELs for carbon monoxide and nitric oxide. The Agency proposed changing the PELs for carbon monoxide to 35 ppm (40 mg/m³) as an 8-hour TWA, and a 15-minute STEL of 200 ppm (229 mg/m³), consistent with OSHA's limits which are based on recommendations made by NIOSH. MSHA currently limits carbon monoxide levels to a 50-ppm (55 mg/m³) TWA and 400-ppm STEL. A few commenters strongly objected to the new lower limits, contending that scientific studies do not support the proposed limit. The ACGIH recommends a 50-ppm TWA and 400-ppm STEL.

For nitric oxide, MSHA proposed 25 ppm (30 mg/m³) TWA—the same as the current limit—based on the current ACGIH recommendation. NIOSH supports the MSHA proposal and submitted its criteria document on oxides of nitrogen in support of the limit.

MSHA proposed to lower the existing PEL for sulfur dioxide from a 5-ppm TWA and a 20 ppm 5-minute STEL, to a 2-ppm TWA and a 5-ppm 15-minute STEL. MSHA based its proposal on the ACGIH's latest recommendations. Some commenters requested that MSHA retain the current limit, stating that the scientific evidence does not support any change. NIOSH recommended that MSHA promulgate an SO_2 PEL of 0.5 ppm as an 8-hour TWA. In support, NIOSH submitted documentation from its criteria document on sulfur dioxide and stated that SO_2 is a respiratory irritant with both acute and chronic effects.

B. Exposure Monitoring

Frequency. The proposed rule would require exposure monitoring when the operator has reason to believe that a change in production, process, materials, equipment, or engineering or administrative controls would increase a contaminant's concentration above the limit listed in the PEL table; upon installation of controls that are used to reduce exposure to the PEL; and upon modification of existing controls that are used to reduce exposures to the PEL. The proposal also would require exposure monitoring at least once every 3 months if respirators are required to be worn because a substance's concentration is above the PEL. Some commenters stated that this provision should be more performance-oriented. Other commenters stated that exposure monitoring triggered by use of respiratory protection should be more frequent for substances with short-term health effects than for substances with long-term effects. A few commenters stated that the exposure monitoring requirements would be overly burdensome for certain portable operations that frequently change location. Other commenters stated that the Agency should require more frequent monitoring and that the proposal falls short of general industry requirements. NIOSH recommends that routine air monitoring be required on a periodic basis, regardless of any planned process changes.

Cessation of monitoring. Under the proposal, whenever monitoring is required, operators could not cease

monitoring until airborne concentrations are determined to be at or below the PEL with 95 percent confidence. Some commenters strongly objected to this standard, stating that small mine operators in particular would be burdened in meeting such confidence levels.

Sampling Procedures. The proposed rule would require monitoring samples to be representative of workers' exposures during the workday. The samples would have to be collected and analyzed with appropriate instrumentation and methods by persons trained or experienced in the procedures. Commenters suggested that MSHA develop a monitoring standard that includes sampling methods for each contaminant on the PEL table, as well as a monitoring program unique to the particular mining operation. Commenters also requested that MSHA specify in the standard acceptable performance criteria for the accuracy and precision of each sampling and analytical method in terms of its coefficient of variation.

Recordkeeping. MSHA would require that mine operators maintain a record of required monitoring for 5 years. Some commenters suggested that the miner's personal identification number, such as social security number or payroll number, be used rather than the miner's name. Other commenters suggested a 30-year retention period so that data could be used in long-term epidemiological studies. Also, some commenters objected to requiring that the record include the corrective action taken by the operator.

Access. Under the proposal, miners would have immediate access to their records for examination and copying. Miners' representatives or designated representatives would have similar access to records of miners they represent. Former employee would have access to records of samples that reflect their exposure. Workers would have 5 years from the date of the sample to examine and copy their exposure records. Operators would be required to transfer all records required by the standard to any successor opertor or, where there is no successor operator, operators would have to notify affected miners of their right of access at least 3 month before disposal of the records. Some commenters suggested that MSHA require miners to submit their requests in writing and that sufficient time be given for operators to furnish copies of exposure records to miners. Commenters stated that only the elected miners' representative should have access to these records and designated representatives should not.

Observation of monitoring. The proposal would require operators to provide affected miners with the opportunity to observe exposure monitoring. Some commenters believe that this right should be given only to miners and the miners' representative. Some commenters also recommended that MSHA specify in the standard that the Federal Mine Safety and Health Act of 1977 does not provide for walk-around pay under such circumstances.

Notification of overexposure. When a sample shows an overexposure, operators would be required to notify miners of overexposures in writing within 15 calendar days after receipt of sampling results of the overexposure and the corrective action being taken. Some commenters suggested that notification be triggered by the results of monitoring rather than by an individual sample. A few commenters recommended that MSHA require that operators inform miners of corrective action being taken only after abatement procedures are approved.

C. Prohibited Areas for Food and Beverages

Under the proposal, MSHA would continue to restrict consumption or storage of food or beverages in a toiled room or in any area where food or beverages could become contaminated by a hazardous substance. Although commenters supported the standard, they requested that MSHA clarify the meaning of hazardous substance. One commenter suggested that MSHA use the term "toxic materials," which OSHA defines as materials in consentrations or amounts that (1) exceed applicable permissible exposure limits, or (2) in the absence of a PEL, are present in an amount and toxicity that constitute a recognized hazard that is causing or likely to cause death or serious harm.

D. Abrasive Blasting

Surface operations. MSHA's existing regulations for metal and nonmetal mines prohibit the use of silica sand or other materials containing more than 1 percent free silica as an abrasive substance or in abrasive blasting cleaning operations at all surface mines and the surface of underground mines unless the user is protected with a full-flow respirator or equivalent. In the proposed rule, MSHA would delete the term "full-flow" respiratory protection and require a "supplied-air respirator approved for abrasive blasting."

MSHA's existing standard for coal mines requires protective clothing for protection against the impact of particles from such operations. The proposal would require operators at coal and metal/nonmetal surface operations to use supplied-air respirators approved for abrasive blasting when abrasive blasting is done with silica sand or other materials containing more than 1 percent quartz, unless the work is performed in a totally-enclosed device with the operator outside the device.

Underground operations. Under the proposal, abrasive blasting using silica sand or other materials containing more than 1 percent free silica as an abrasive substance in abrasive blasting operations at metal/nonmetal underground mines would continue to be prohibited. Also, the proposed rule would explicitly prohibit the use underground of abrasives containing more than 1 percent silica at coal mines. If substitute abrasives are used and there would be no overexposure to substances on the PEL table, MSHA would still require that abrasive-blasting protection be used at metal/nonmetal and coal mines according to §§ 56/57.15006, 75.1720 and 77.1710.

Most commenters supported MSHA's proposal in abrasive blasting and recognize that conformance with the PEL table alone may not be protective enough when conducting this activity.

NIOSH disagreed with the Agency's treatment of materials containing less than one percent silica, stating that even at those levels silica should be treated as a potential occupational carcinogen. NIOSH suggests that abrasive blasting using materials containing any detectable silica should not be allowed in underground operations. At surface operations, NIOSH recommends requiring air-supplying respiratory protection when using material containing any detectable level of silica.

Drill dust control. For metal and nonmetal mines, the proposed rule would continue to require that holes be collared and drilled wet or other effective dust-control measures be used when drilling material that is not water soluble. Effective dust control measures would have to be used when drilling water-soluble materials. These provisions would be new for surface coal mines. In addition, existing § 70.400 would be revised to require that dust collectors be maintained in permissible operation condition when they are provided as a method of controlling dust. Most commenters agreed with the MSHA proposal.

E. Dangerous Atmospheres

The proposal would require that atmospheres be tested for hazardous gases, vapors, and oxygen deficiency

before entrance into areas that have the potential for very hazardous environmental conditions. These areas include abandoned areas underground, silos, vats, tanks and other confined spaces and areas where there has been a release of contaminant that could cause an acute respiratory exposure that is an immediate threat of loss of life, immediate or delayed irreversible adverse effects on health, or acute eye exposure that would prevent escape from a hazardous atmosphere (IDLH atmosphere). The proposal defines "confined space" as "a space that by design has restricted openings for entry and exit, an unfavorable atmosphere that could contain or produce dangerous air contaminants and is not intended for continuous occupancy," which is consistent with OSHA's proposed definition.

Commenters generally agree that dangerous atmospheres merit special regulation. However, some commenters suggested that the agency clarify its intent about the language of the standard and raised objections to MSHA's definition of confined space as too broad. Some commenters recommended that MSHA adopt OSHA's proposed concept for imposing dangerous atmosphere restrictions in that confined spaces have "a known potential to contain" an IDLH atmosphere coupled with "a reason to believe" than an IDLH atmosphere exists.

The proposed rule would continue to require that all work areas contain at least 19.5 percent oxygen by volume. If oxygen content falls below this level, miners must be withdrawn unless they are using appropriate respiratory protection, and operators must take immediate corrective action to restore the level to at least 19.5 percent. Most commenters supported MSHA's proposal.

The proposal also would require that persons take certain precautions when entering an oxygen-deficient atmosphere listed in the table or any of the potentially dangerous atmospheres listed in this standard. The standard would require respiratory protection; at least one standby person outside the affected area with equipment capable of rescuing the other person without entering the area, or a two-person rescue system capable of recovery of the affected person; and communications between the standby person and the persons entering or working in the hazardous atmosphere. Most commenters generally supported MSHA's proposal but requested that the Agency develop a more performance-oriented standard for rescuing persons from dangerous atmospheres. Other commenters felt that the standard needed greater specificity for operator compliance.

MSHA particularly requests further comment on these issues in the proposed rule.

Dated: May 7, 1990.

William J. Tattersall,

Assistant Secretary for Mine Safety and Health.

[FR Doc. 90-11038 Filed 5-10-90; 8:45 am]

BILLING CODE 4510-43-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 913

Illinois Regulatory Program; Reopening of Public Comment Period

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; Reopening of public comment period.

SUMMARY: OSM is reopening the public comment period on the substantive adequacy of certain program amendments submitted by Illinois to modify the Illinois permanent regulatory program (hereinafter referred to as the Illinois program) under the Surface Mining Reclamation Act of 1977 (SMCRA).

By letter dated July 17, 1989, Illinois submitted proposed amendments to its program (Administrative Record No. IL-1075). OSM announced receipt of the proposed amendments in the August 24, 1989, **Federal Register** (54 FR 35205) and in the same notice opened the public comment period and provided opportunity for a public hearing. The comment period closed on September 25, 1989. The amendments were intended to make the requirements of the Illinois program no less effective than the Federal program. By letter dated April 10, 1990, Illinois submitted additional changes to the amendments.

This notice sets forth the times and locations that the Illinois program and proposed amendments to that program are available for public inspection and the comment period during which interested persons may submit written comments on the proposed amendments.

DATES: Written comments must be received on or before 4 p.m. on May 29, 1990.

ADDRESSES: Written comments should be mailed or hand delivered to: Mr. James F. Fulton, Director, Springfield Field Office, at the address listed below. Copies of the Illinois program and all written comments received in response to this notice will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive, free of charge, one copy of the proposed amendments by contracting OSM's Springfield Office.

Office of Surface Mining Reclamation and Enforcement, Springfield Field Office, 511 West Capitol Street, suite 202, Springfield, Illinois 62701, Telephone: (217) 492-4495.

Illinois Department of Mines and Minerals, 300 West Jefferson Street, suite 300, Springfield, Illinois 62791, Telephone: (217) 782-4970.

FOR FURTHER INFORMATION CONTACT: James F. Fulton, Director, Springfield Field Office; (217) 492-4495.

SUPPLEMENTARY INFORMATION:

I. Background

On June 1, 1982, the Secretary of the Interior conditionally approved the Illinois program. Information pertinent to the general background of the Illinois program submission, as well as the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval can be found in the June 1, 1982, **Federal Register** (47 FR 23882 *et seq.*). Subsequent actions concerning the conditions of approval and program amendments are identified at 30 CFR 913.11, 913.15, 913.16, and 913.17.

II. Discussion of Proposed Amendments

Pursuant to 30 CFR 732.17, OSM identified required revisions to the Illinois regulatory program by letters dated June 9, 1987; December 16, 1988; and May 11, 1989. OSM also notified Illinois of deficiencies which OSM had determined to be less effective than the Federal requirements for surface mining and reclamation operations in Illinois program amendments approved by the Director on October 25, 1988 (53 FR 43112) and January 4, 1989 (54 FR 118).

In response to these notifications, Illinois by letter dated July 17, 1989 (Administrative Record No. IL-1075), submitted proposed amendments to its program. They concern proposed changes to the Illinois Administrative Code (IAC) at 62 IAC 1700 General; 62 IAC 1701 Definitions; 62 IAC 1761 Areas Designated by Act of Congress; 62 IAC 1772 Coal Exploration Requirements; 62 IAC 1773 Permits and Permit Processing Requirements; 62 IAC 1774 Revision;

Renewal and Transfer of Permit Rights; 62 IAC 1778 Permit Applications—Minimum Requirements for Legal, Financial, Compliance and Related Information; 62 IAC 1779 Permit Applications—Minimum Requirements for Information on Environmental Resources; 62 IAC 1780 Surface Mining Permit Applications—Minimum Requirements for Information on Environmental Resources; 62 IAC 1784 Underground Mining Permit Applications—Minimum Requirements for Reclamation and Operation Plan; 62 IAC 1800 Bonding and Insurance Requirements for Surface Coal Mining; 62 IAC 1816 Permanent Program Performance Standards—Surface Mining; 62 IAC 1817 Permanent Program Standards—Underground Mining; 62 IAC 1843 State Enforcement; and 62 IAC 1846 Individual Civil Penalties.

On April 10, 1990, in response to an issue letter prepared by OSM on February 13, 1990, Illinois submitted additional changes to the amendments.

At IAC 1700.11(a), the applicability of IAC rules to all reclamation operations is restored.

At IAC 1701.5, the definition of "previously mined area" is changed to mean land that had been mined before August 3, 1977.

At IAC 1772.12(d)(2)(c), a typographical error is corrected by eliminating the phrase "pursuant to the National Register of Historic Places."

At IAC 1773.5, the phrase "any one of" is changed to "any one or" referring to relationships which evidence ownership and control.

IAC 1778.13(j) is amended to require that a permit applicant submit information in any format prescribed and issued by OSM.

IAC 1780.21(i)(2) and (3) and IAC 1784.14(h)(2) and (3) are amended to waive ground-water monitoring requirements if the permit applicant can demonstrate that a particular water-bearing stratum is not one which serves as an aquifer which significantly ensures the hydrologic balance within the impact area.

IAC 1783.12(b)(1) is revised to include inadvertently deleted language which requires a description in the permit application of cultural, historic, and archeological resources listed or eligible for listing on the National Register of Historic Places in accordance with the National Historic Preservation Act of 1966, and known archeological features.

IAC 1800.40(b)(2) is revised to require that the State notify the county in which a surface coal mining operation is located of its decision to release or not to release a performance bond.

IAC 1800.40(d) is revised to change a reference from subsection "f" to subsection "e."

IAC 1816.49(a)(9)(B) and IAC 1817.49(a)(9)(B) are revised to require that all non-MSHA size impoundments be inspected at least weekly during construction and upon completion of construction.

IAC 1816.49(a)(10) and IAC 1817.49(a)(10) are revised to require that a statement indicating that a pond has been maintained in accordance with the approved plan and applicable regulations be included as part of a quarterly impoundment examination.

IAC 1816.49(a)(10)(B) and IAC 1817.49(a)(10)(B) are revised to define the elevation of impounded water as design elevation.

IAC 1816.49(a)(10)(C) and IAC 1817.49(a)(10)(C) are revised to provide examples of impoundments that do not facilitate mining or reclamation.

IAC 1816.49(b)(9) and IAC 1817.49(b)(9) are revised to specify that permanent impoundments not meeting certain size criteria be provided with a spillway meeting certain discharge standards.

IAC 1816.49(b)(10) and (c)(2) and IAC 1817.49(b)(10) and (c)(2) are added to provide single spillway standards.

IAC 1816.49(c) and IAC 1817.49(c) are revised to include inadvertently deleted size criteria provided at 30 CFR 77.216(a) for temporary impoundments.

IAC 1816.61(c) and IAC 1817.61(d) are revised to eliminate exemptions for blasts using fewer than 25 pounds of explosives.

IAC 1816.67(c)(1) and IAC 1817.67(c)(1) are revised to correct a formatting error in the air blast description.

IAC 1816.67(g) and 1817.67(g) are revised change the blast scaled distance from 60 to 65.

IAC 1816.83(a)(3) is revised to correct a reference from 1816.72 to 1816.71(1)(2).

III. Public Comments Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendments satisfy the applicable program approval criteria of 30 CFR 732.15.

If the amendments are deemed adequate, they will become part of the Illinois program.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under "**DATES**" or at locations other than the OSM Springfield Office will not necessarily be considered and included in the Administrative Record for the final rulemaking.

List of Subjects in 30 CFR Part 913

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: April 30, 1990.

Carl C. Close,

Assistant Director, Eastern Field Operations.

[FR Doc. 90-11040 Filed 5-10-90; 8:45 am]

BILLING CODE 4310-05-M

30 CFR Part 931

New Mexico Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

SUMMARY: OSM is announcing the receipt of a proposed amendment to the New Mexico permanent regulatory program (hereinafter, the "New Mexico program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment pertains to the definition of coal, hydrologic balance, and postmining land use. The amendment is intended to revise the State program to provide additional safeguards and improve operational efficiency.

This notice sets forth the times and locations that the New Mexico program and proposed amendment to that program are available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendment, and the procedures that will be followed regarding the public hearing, if one is requested.

DATES: Written comments must be received by 4 p.m., m.d.t. June 11, 1990. If requested, a public hearing on the proposed amendment will be held on June 5, 1990. Requests to present oral testimony at the hearing must be received by 4 p.m., m.d.t. on May 29, 1990.

ADDRESSES: Written comments should be mailed or hand-delivered to Robert H. Hagen at the address listed below.

Copies of the New Mexico program, the proposed amendment, and all written comments received in response to this notice will be available for public

review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Albuquerque Field Office.

Robert H. Hagen, Director, Albuquerque Field Office, Office of Surface Mining Reclamation and Enforcement, 625 Silver Avenue, SW., Suite 310, Albuquerque, NM 87102, Telephone: (505) 766–1486.

New Mexico Energy and Minerals Department, Mining and Minerals Division, 2040 South Pacheco Street, Santa Fe, NM 87505, Telephone: (505) 827–5970.

FOR FURTHER INFORMATION CONTACT: Robert H. Hagen, Director, Albuquerque Field Office, on telephone number (505) 766–1486.

SUPPLEMENTARY INFORMATION:

I. Background on the New Mexico Program

On December 31, 1980, the Secretary of the Interior conditionally approved the New Mexico program. General background information on the New Mexico program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the New Mexico program can be found in the December 31, 1980, **Federal Register** (45 FR 86489). Subsequent actions concerning New Mexico's program and program amendments can be found at 30 CFR 931.12, 931.15, and 931.30.

II. Proposed Amendment

By letter dated April 24, 1990 (Administrative Record No. NM–580), New Mexico submitted a proposed amendment to its program pursuant to SMCRA. New Mexico submitted the proposed amendment at its own initiative. New Mexico proposes to amended CSMC Rules 80–1–1–5 concerning the definition of coal; CSMC Rule 80–1–20–42 concerning hydrologic balance; and CSMC Rule 80–1–20–133 concerning postmining land use.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the New Mexico program.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under "DATES" or at locations other than the Albuquerque Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

Public Hearing

Persons wishing to testify at the public hearing should contact the person listed under **"FOR FURTHER INFORMATION CONTACT"** by 4:00 p.m., m.d.t. on May 28, 1990. The location and time of the hearing will be arranged with those persons requesting the hearing. If no one requests an opportunity to testify at the public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allows OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to testify have been heard. Persons in the audience who have not been scheduled to testify, and who wish to do so, will be heard following those who have been scheduled. The hearing will end after all persons scheduled to testify and persons present in the audience who wish to testify have been heard.

Public Meeting

If only one person requests an opportunity to testify at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendment may request a meeting by contacting the person listed under **"FOR FURTHER INFORMATION CONTACT."** All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under **"ADDRESSES."** A written summary of each meeting will be made a part of the Administrative Record.

List of Subjects in 30 CFR Part 931

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: May 3, 1990.

Raymond L. Lowrie,

Assistant Director, Western Field Operations.

[FR Doc. 90–11041 Filed 5–10–90; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

RIN 2900–AD16

Grants to States for Construction or Acquisition of State Home Facilities

AGENCY: Department of Veterans Affairs.

ACTION: Proposed regulations.

SUMMARY: The Department of Veterans Affairs (VA) is proposing to amend its medical care regulations, Grants to States for Construction or Acquisition of State Home Facilities (38 CFR Part 17), to implement section 206 of the Veterans' Benefits and Services Act of 1988 enacted on May 20, 1988. This section changes from July 1 to August 15 the date on which VA will determine the priority of applications for construction or acquisition grants for State Extended Care Facilities for purposes of the priority list. Section 206 also provides the Secretary authority to conditionally approve an application and obligate funds for a grant if the Secretary determines that the State can complete its grant application and meet all remaining Federal requirements within 90 days. At the same time, VA is updating the States home grant standards and the recent veteran population of the various States set forth in these regulations. These revisions will assist the States in meeting deadlines for the priority list and subsequent grant awards.

DATES: Comments must be received on or before June 11, 1990. All comments will be available for public inspection until June 20, 1990. These regulations are proposed to be effective 30 days after publication of the final regulations in the **Federal Register.**

ADDRESSES: Interested persons are invited to submit written comments, suggestions or objections regarding this proposal to the Secretary of Veterans Affairs (271A), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. All written comments received will be available for public inpection only in the Veterans Services Unit, Room 132, of the above address between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays) until June 20, 1990.

A copy of any comments that concern information collection requirements should also be sent to the Office of Management and Budget at the address contained in the Paperwork Reduction section of this preamble.

FOR FURTHER INFORMATION CONTACT: Mr. F. Brent Baker, Chief, State Construction Grant Program (182C), Veterans Health Services and Research Administration, Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420 (202) 233-3679.

SUPPLEMENTARY INFORMATION: The Veterans' Benefits and Services Act of 1988 (Pub. L. 100-322) changed the date from July 1 to August 15 on which VA will determine the priority of applications for construction or acquisition of State Extended Care Facilities for purposes of the priority list. Applications from States are thus required by August 15 in order to be considered for the priority list. States must also have available at least one-half of the matching State funds and submit sufficient documentation to VA by August 15 to be placed in the priority 1 category on the list.

Public Law 100-322 also provides the Secretary authority to conditionally approve a State's application for a project if it is determined that the State can meet the remaining Federal requirements within 90 days. If the State fails to meet the 90 day extension, Federal funds will be deobligated and applied to other grant awards for applications in the order of their priority on the priority list. These applicants must have obtained all of their State matching funds and meet all other Federal grant requirements. The final grant for a conditionally approved project cannot exceed 10 percent of the initial conditional approval. This conditional approval authority will help the States that experience delays beyond their control and cannot complete design documents, bid the project, and submit bid tabulations before the end of the Fiscal Year. VA will use this authority as the exception rather than the rule and will encourage States to submit bid tabulations prior to the end of the Federal Fiscal Year if at all possible.

VA is also proposing a regulation for handling grant requests that exceed 50 percent of the annual appropriation for Grants for Construction or Acquisition of State Extended Care Facilities.

Such requests that otherwise meet priority group 1 requirements will be given a lower priority within priority group 1 than grant requests for 50 percent or less of the annual appropriation. VA may partially fund a request if the State has adequate State matching funds and will accept the partial grant. If the State accepts partial funding, it may apply for additional funds in subsequent years by submitting only the pages from the previously submitted application which need to be changed. Receipt of additional Federal funds would be contingent on the availability of Federal funds and the priority list ranking of the State's application. This regulatory amendment would provide a mechanism for handling grant requests that exceed 50 percent of the annual appropriation and would prevent a single grant project from receiving all the grant funds appropriated for a given fiscal year.

Standards for the construction or acquisition of State domiciliaries or nursing homes or for the remodeling or renovation of existing State home facilities need updating. The standards would be completely revised and the format changed to reflect current codes and requirements and place more emphasis upon State's processes. Sections 17.178 through 17.183 would be added to avoid overly detailed subdivisions within sections. Existing § 17.177 would be divided into shorter sections and § 17.177 would become the general introductory section followed by program guidelines for domiciliaries and nursing homes (§ 17.178), and hospitals (§ 17.179).

Additional sections would contain guidelines for submissions required during the preapplication phase (§ 17.180) and application phase (§ 17.181) and for initial equipment to be installed in the State home (§ 17.182). Section 17.183 would contain general requirements for site, architectural, structural, mechnical, plumbing, electrical, and fire safety. VA will review design development drawings and specifications to provide guidance and direction to the State agency which will be responsible for assuring that the architect receives and complies with all standards prescribed in these regulations.

At the same time, VA proposes to update the veteran population figures in § 17.171 Appendix A.

These proposed amendments to VA regulations are considered nonmajor under the criteria of Executive Order 12291, Federal Regulation, on the basis that they will not have an annual effect on the economy of $100 million or more, they will not result in major increases in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions, nor will they have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Secretary of Veterans Affairs certifies that these proposed regulatory amendments will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (FRA), 5 U.S.C. 601 through 612. Pursuant to 5 U.S.C. 605(b), these proposed regulatory amendments are exempt from the initial and final regulatory flexibility analyses requirements of §§ 603 and 604 The reason for this certification is that these proposed amendments will affect only construction or acquisition grants for State Verterans Homes. They will, therefore, have no significant impact on small entities (i.e, small business, small private and nonprofit or ganizations, and small governmental jurisdictions).

The Paperwork Reduction Act

Sections 17.173, 17.179, 17.180, 17.181, and 17.182 of this proposed regulation contain information collection requirements. Although there are 56 different collections requirements. Although there are 56 different collections required by these sections they are being treated as a whole because they are all a part of the construction or acquisition application for Federal assistance (SF 424, 424c, and 424D) and the grant award process Public reporting burden for this collection of information is estimated to be 24 hours per total response with a total of 480 hours (20 applicants annually). This includes the time each state will expend for reviewing instructions, gathering and copying the date needed, and completing the application process for a construction or acqusition grant award for a State veterans home project.

As required by section 3504(h) of the Paperwork Reduction Act, the Department of Veterans Affairs is submitting to the Office of Management and Budget (OMB) a request that it approve this information collection requirement. Organizations and individuals desiring to submit comments for consideration by OMB on this proposed information collection requirement should address them to the Office of Information and Regulatory Affiars, OMB Room 3002, New Executive Office Building, Washington, DC 20503, Attention: Joseph F. Lackey.

The Catalog of Federal Domestic Assistance program number for these regulatory amendments is 64 005.

List of Subjects in 38 CFR Part 17

Alcoholism, Claims, Dental health, Drug abuse, Foreign relations, Government conttracts, Grants

programs-health, Health care, Health facilities, Health professions, Incoporation by reference, Medical devices, Medical research, Mental health programs, Nursing homes, Philippines, Reporting and recordkeeping requirements, Veterans.

Approved: September 15, 1989.

Edward J. Derwinski,

Secretary of Veterans Affairs.

Editional Note. This document was received for publication at the Office of the Federal Register on May 3, 1990.

38 CFR Part 17, MEDICAL, is proposed to be amended as follows:

PART 17—[Amended]

1. In § 17.170, paragraph (b) is revised to read as follows:

§ 17.170 Definitions.

* * * * *

(b) The term "State" means each of the several States, the District of Columbia, the Virgin Islands and the Commonwealth of Puerto Rico.

(Authority: 38 U.S.C. 5031(b))

* * * * *

2. Appendix A of § 17.171, appearing after § 17.177, amended by revising the appendix heading and the table to read as follows:

Appendix A to § 17.171—State Home Facilities for Furnishing Nursing Home Care

* * * * *

State	Veteran population in thousands	No. of beds: NHC 2.5/1000	No. of beds: NHC 4/1000	No. of beds: Dom 2/1000
Alabama	405	1,013	1,620	810
Alaska	63	158	252	126
Arizona	420	1,050	1,680	840
Arkansas	252	630	1,008	504
California	2,829	7,073	11,316	5,658
Colorado	395	988	1,580	790
Connecticut	386	965	1,544	772
Delaware	80	200	320	160
District of Columbia	57	143	228	114
Florida	1,524	3,810	6,096	3,048
Georgia	666	1,665	2,664	1,332
Hawaii	100	250	400	200
Idaho	109	273	436	218
Illinois	1,227	3,068	4,908	2,454
Indiana	640	1,600	2,560	1,280
Iowa	325	813	1,300	650
Kansas	282	705	1,128	564
Kentucky	359	898	1,436	718
Louisiana	417	1,043	1,668	834
Maine	154	385	616	308
Maryland	543	1,358	2,172	1,086
Massachusetts	666	1,665	2,664	1,332
Michigan	1,026	2,565	4,104	2,052
Minnesota	496	1,240	1,984	992
Mississippi	230	575	920	460
Missouri	629	1,573	2,516	1,258
Montana	100	250	400	200
Nebraska	178	445	712	356
Nevada	146	365	584	292
New Hampshire	146	365	584	292
New Jersey	875	2,188	3,500	1,750
New Mexico	170	425	680	340
New York	1,801	4,503	7,204	3,602
North Carolina	681	1,703	2,724	1,362
North Dakota	63	158	252	126
Ohio	1,296	3,240	5,184	2,592
Oklahoma	378	945	1,512	756
Oregon	356	890	1,424	712
Pennsylvania	1,508	3,770	6,032	3,016
Rhode Island	119	298	476	238
South Carolina	354	885	1,416	708
South Dakota	77	193	308	154
Tennessee	530	1,325	2,120	1,060
Texas	1,747	4,368	6,988	3,494
Utah	140	350	560	280
Vermont	64	160	256	128
Virginia	664	1,660	2,656	1,328
Washington	598	1,495	2,392	1,196
West Virginia	217	543	868	434
Wisconsin	561	1,403	2,244	1,122
Wyoming	54	135	216	108
Puerto Rico	124	310	496	248

Estimate as of March 31, 1989.

Source: Office of Reports and Statistics, VA. (Based on last available Bureau of the Census data.)

3. In § 17.172, the current text is redesignated as paragraph (a), and paragraphs (b) and (c) are added to read as follows:

§ 17.172 Scope of grants program.

* * * * *

(b) The Department of Veterans Affairs may offer a State a grant which is less than the amount of the grant requested subject to the State's provision of assurance that adequate financial support will be available for the project and for its maintenance, repair, and operation when complete. If VA offers a grant to a State for less than the amount requested and the State refuses to accept it, these Federal funds will be applied to other applications which have met all Federal requirements in the order of their priority on the list which was established by the Secretary under § 17.173(d) of this part for that fiscal year.

(c) If a State accepts the grant for less than the amount requested, the State may request that its application for additional funds be ranked on the next priority list for additional Federal funds.

(Authority: 38 U.S.C. 5035(b)(2)(D))

4. In § 17.173(c)(3), the undesignated first and second paragraphs are designated as (i) and (ii), respectively.

In newly designated § 17.173(c)(3)(ii)(C) remove the words "June 15" where they appear and add, in their place, the words "August 15".

5. In § 17.173, paragraphs (e), (f), (g), and (h) are redesignated as paragraphs (f), (g), (h) and (i) respectively, paragraphs (a)(5) and (b)(7) and revised, paragraph (c)(3)(i) and the last sentence of (c)(3)(ii)(A) are revised, the first sentence of paragraph (d) is revised, and new paragraph (e) is added, so the new and revised material reads as follows:

§ 17.173 Applications with respect to projects.

(a) * * *

(5) The State application for Federal assistance shall include environmental documentation for the project by submitting a Categorical Exclusion (CE), Environmental Assessment (EA), or an Environmental Impact Statement (EIS). The environmental documentation will require approval by the Department of Veterans Affairs before final award of a construction or acquisition grant for a State veterans home. (See § 26.6 of this chapter for compliance requirements.) If the proposed actions involving construction or acquisition do not individually or cumulatively have a significant effect on the human environment, the applicant shall submit a letter noting a Categorical Exclusion. If construction outside the walls of an existing structure will involve more than 75,000 net square feet (NSF), the application shall include an environmental assessment to determine if an Environmental Impact Statement is necessary for compliance with section 102(2)(c) of the National Environmental Policy Act of 1969. When the application submission requires an environmental assessment, the State shall briefly describe the possible beneficial and/or harmful effect which the project may have on the following impact categories:

(i) Transportation;

(ii) Air quality;

(iii) Noise;

(iv) Solid waste;

(v) Utilities;

(vi) Geology (soils/hydrology/flood plains);

(vii) Water quality;

(viii) Land use;

(ix) Vegetation, wildlife, aquatic, and ecology/wetlands;

(x) Economic activities;

(xi) Cultural resources;

(xii)Aesthetics;

(xiii) Residential population;

(xiv) Community services and facilities;

(xv) Community plans and projects; and

(xvi) Other.

If an adverse environmental impact is anticipated, the action to be taken to minimize the impact should be explained in the environmental assessment.

(Authority: 38 U.S.C. 5035(a))

(b) * * *

(7) Grantees will comply with the Federal requirements contained in Title 38, Code of Federal Regulations, Parts 43 and 44 and assurances contained in SF-424D, Assurances-Construction Programs.

(Authority: 38 U.S.C. 5035(a))

* * * * *

(c) * * *

(3)(i) If such application provides sufficient information for the Secretary to establish its priority, determine the priority of the project described in the application in relation to all other projects in accordance with the criteria set forth in this paragraph. In establishing a project's priority, the Secretary shall rank projects from the highest to the lowest priority in the order of priority groups set forth in this paragraph, giving the projects in Group 1 the highest priority and the projects in Group 6 the lowest. Where more than one project is ranked in a single priority group, the Secretary shall rank those projects by applying the criteria applicable to the next lower priority group. If a State's application for Federal assistance for a project that exceeds 50 percent of the next fiscal year's estimated appropriation for State home grants will be placed at the bottom of the priority group in which it is ranked. Where such ranking results in more than one project being given the same priority, the Secretary shall rank those projects, except as otherwise provided, in accordance with the criteria applicable to the next lowest priority group until all projects are ranked with a different priority.

(ii) * * *

(A) * * * For the purpose of the priority list, the Secretary will accept the following as demonstrating that a State has made sufficient funds available:

(*1*) A copy of the Act, as approved by the Governor, making available at least one-half of the State's matching funds for the project; and

(*2*) A letter from an authorized State budget official certifying that at least one-half of the State funds are, or will be, available for the project, so that if VA approves the grant during the next fiscal year, the project may proceed without further State action to make such funds available.

(Authority: 38 U.S.C. 5035(b)(2))

* * * * *

(d) The Secretary shall establish after August 15 of each year a list of projects, including projects that have been conditionally approved under paragraph (e) of this section, in the order of their priority on August 15 of that year as determined pursuant to paragraph (c) of this section. * * *

(e) The Secretary may conditionally approve a project, conditionally award a grant for the project, and obligate funds for the grant if:

(1) The grant application is sufficiently complete to warrant the conditional award; and

(2) The State requests conditional approval for its application and provides the Department of Veterans Affairs written assurance that it will complete the application and meet all requirements not later than 90 days after the date of conditional approval by the Secretary of the Department of Veterans Affairs.

The final grant award shall not exceed 10 percent of the amount conditionally approved, and in no case shall the total amount of the grant exceed 65 percent of the total estimated cost of the project. If the State fails to complete the remaining requirements within the 90 days from the date of conditional approval, the Secretary shall rescind the conditional approval and grant award, and deobligate the funds previously obligated for the project.

(Authority: 38 U.S.C. 5035(b)(4), (6)(A)-(7)(B))

6. Section 17.177 is revised to read as follows:

§ 17.177 General program requirements for construction and acquisition of and equipment for State home facilities.

(a) *Introduction.* (1) The general program requirements set forth in this section have been established to guide the State agencies and their architects in preparing drawings, specifications, cost estimates, and the equipment list for the grant application.

(2) States shall apply the Uniform Federal Accessibility Standards (UFAS), 49 FR 31528 (August 7, 1984), (as corrected and printed in U.S. Government Printing Office: 1985-494-187), during the design and construction of State home projects. UFAS standards establish requirements for facility accessibility by physically handicapped persons for Federal and Federally-funded facilities and were jointly developed by the General Services Administration, the Department of Housing and Urban Development, the Department of Defense, and the United States Postal Service, under the authority of sections 2, 3, 4, and 4a of the Architectural Barriers Act of 1968, as amended, Public Law 90-480, 42 U.S.C. 4151-4157.

(3) States must comply with these requirements where they exceed any National, State, or local codes. If the State or local codes exceed these general requirements, compliance with the more stringent standard is required.

(4) The space allotted to the various services (i.e. medical, nursing, dietary, and the like) will depend upon the requirements of the facility. Some services that are required by these regulations to be in separate spaces or rooms, may be combined if the result will not compromise safety and medical and nursing practices. The Department of Veterans Affairs shall accept a design and waive minimum requirements where a service or services will have minimal renovations and remain in their present locations.

(Authority: 38 U.S.C. 5034(2))

(b) *General conditions of the contract for construction.* The applicant may use the general conditions of the contract for construction of the American Institute of Architects (AIA) or other general conditions as required by the State in awarding contracts for State home grant projects. (See 37 CFR part 43 for contract requirements.)

(c) *Program criteria.* The State will use the program criteria in §§ 17.178 through 17.179, as required by the scope of the project, subject to the approval of the Department of Veterans Affairs.

(Authority: 38 U.S.C. 5034(2))

7. Sections 17.178 through 17.183 are added to read as follows:

§ 17.178 Domiciliary and nursing home care program.

(a) *Objective.* Domiciliary and nursing home care facilities should provide a therapeutic, rehabilitative, safe and home-like environment to assist in maintaining or restoring veterans to the highest level of functioning. Long-term care facilities shall be designed to encourage and facilitate participation in therapeutic programs.

(Authority: 38 U.S.C. 5034(2))

(b) *General.* All domiciliary beds shall meet nursing home care construction standards and be suitable to provide for future conversion to nursing home care if needed. The Department of Veterans Affairs may waive this requirement if the State shows that it will need domiciliary beds more than nursing home beds for eligible veterans. See § 17.183 of this part.

(Authority: 38 U.S.C. 5034(2))

(c) *Nursing units.* A nursing unit with related facilities will normally be constructed so that nurses may supervise 30 to 60 patients. If there are design limitations, fewer beds are permissible. A 30-bed unit with a centrally located nursing station is preferred on skilled care units to provide efficient use of staff. A design that minimizes the distance between rooms and nursing stations is recommended. Patient storage may be planned in each nursing unit for bulky clothing that will not fit into patients' closet. A nurses' call system shall be required for nursing units. Each patient shall be furnished with an audiovisual or visual nurses' call system which will register a call from the patient with the signal light above the corridor door and at the nursing station in hospitals and nursing homes. An empty conduit system shall be installed for domiciliaries for use in a potential future conversion to a nursing home. A nursing call system shall also be provided in each patient's toilet room and bathroom. Wiring for a nurses' call system shall be installed in conduit.

(Authority: 38 U.S.C. 5034(2))

(d) *Bed configurations.* At least 80 percent of the total beds should be in single and/or double bed rooms. Rooms shall have no more than four beds. Two large two-bed rooms are allowed for a 50–60 bed unit. Adequate space should be provided to allow access to three sides of each bed for the staff to work and utilize medical and emergency equipment.

(Authority: 38 U.S.C. 5034(2))

(e) *Patient bedrooms.* Accessibility studies show that over 85 percent of patients in typical veteran long term care facilities use wheelchairs and require accessible bedrooms and toilets. Each bedroom shall have direct access to an enclosed toilet and lavatory. The percentage of the patient bedrooms that shall be accessible to the physically handicapped must comply with UFAS requirements. These rooms must include UFAS clearances around beds and 5-foot wheelchair turning radius. Individual privacy should be provided by screens, privacy curtains, or similar approaches in bedrooms for more than one patient. No patient room shall be located on a floor which is more than 50 percent below grade level. It is desirable that patient rooms include:

(1) Wardrobes with closets and drawers are large enough to accomodate the personal clothing of patients who require care for an extended period of time.

(2) Room for a desk, lounge chair, television, and other personal belongings.

(3) Total electric beds.

(4) A sink and mirror.

(5) Piped oxygen and vacuum suction for patients as required.

(6) Operable windows to allow access to air. The sill shall be low enough to permit patients to view the ground while sitting.

(Authority: 38 U.S.C. 5034(2))

(f) *Patient room toilets.* Patient toilets must be designed for maximum accessibility and safety for the patients and to facilitate staff assistance. One toilet/bathroom for each bedroom is preferred with a maximum of four beds for each bathroom. Shower/tub rooms should provide an area for setting clean clothes and supplies. Adequate ventilation should be provided to prevent condensation and mildew. The percentage of the patient toilets/bathrooms that are accessible to the physically handicapped must comply with UFAS requirements. These rooms must include UFAS clearances, grab bar configurations, and mounting heights. Alternative grab bar configurations, and mounting heights. Alternative grab bar configurations may be used for the remaining percentage of patient toilets/bathrooms as approved by the Department of Veterans Affairs.

(Authority: 38 U.S.C. 5034(2))

(g) *Reception and control.* Information, telephone, switchboard, mailboxes, and control center facilities should be located adjacent to the main lobby entrance. The information desk serves as a first point of contact, information, and control area for those entering for admission, a visit, or business.

(Authority: 38 U.S.C. 5034(2))

(h) *Administrator/Director's suite.* The project may include an administrator/director's suite to include all administrative activities required by the Director, Assistant Director, and their immediate staffs, including secretaries, analysts, administrative assistants, and/or trainees.

(Authority: 38 U.S.C. 5034(2))

(i) *Dietetic Service.* Dietetic Service facilities such as an office for the dietitian, a kitchen, a dishwashing room, adequate refrigeration, dry storage, receiving area, and garbage facilities should be provided as required. It is desirable to have eating areas on each unit that have a sink, toilet facilities, and storage, that can accommodate wheelchairs and gerichairs, while still being attractive and appealing for dining. Tables should be able to accommodate three to four wheelchairs. Buffet lines may be provided on the unit to allow some choice for patients who cannot get to the main dining room.

(1) Dining room, food preparation, and dishwashing facilities may be planned as separate facilities from Dietetic Service area, if appropriate.

(2) Space for vending machines may be provided.

(Authority: 38 U.S.C. 5034(2))

(j) *Therapy and treatment programs.* Facilities for rehabilitation medicine, physical, occupational, and recreational therapies and other programs shall be planned by the State to meet program requirements and standards of care prescribed by the Department of Veterans Affairs. In addition to the patient therapy spaces, offices may be provided. Medical support areas should be planned to meet program requirements and standards and may include areas for rehabilitation, recreation, dental care and other medical support services.

(Authority: 38 U.S.C. 5034(a))

(k) *Janitors closet.* One janitors closet should be planned for each nursing unit, in the dietetic area, and in the general administrative and clinical space with at least one on each floor. The kitchen and other areas which generate waste or require special care should have their own janitors closet. Convenient storage for floor cleaning machines may also be provided.

(Authority: 38 U.S.C. 5034(2))

(l) *Staff facilities.* Staff toilets should be provided on each floor. Each facility should have an employee locker and lounge.

(Authority: 38 U.S.C. 5034(2))

(m) *Conference room/In-service training.* A conference room which may also be used for staff training and development may be provided. Family and group counseling rooms may also be provided.

(Authority: 38 U.S.C. 5034(2))

(n) *Lounges/recreation.* Two patient lounges which will accommodate large numbers of wheelchair/gerichairs should be considered. Lounges may be separated, one for smokers and one for non-smokers. Lounges should be directly visible from the nursing station or adjacent to the nursing station. Atriums may be planned on the nursing unit, or provisions may be made for access to an outdoor sundeck or patio. An outdoor recreation/patio space should be developed adjacent to a common use

area. Every effort should be made to reduce the noise levels on the nursing unit by using noise reducing materials in construction and decorating.

(Authority: 38 U.S.C. 5034(2))

(o) *Miscellaneous space.* The State home may include space for a library, barbar and/or beauty shop, retail sales, canteen, mailroom, chapel, and computer communications area. Space for a child day care center may be planned if it will primarily serve the needs of persons employed by the State home. Whirlpools and wheelchair scales may be provided for each State home built to nursing home standards. Other spaces in the State home must be fully justified by the applicant and approved by the Department of Veterans Affairs before the Department of Veterans Affairs can participate in funding the cost of the area.

(Authority: 38 U.S.C. 5034(a))

§ 17.179 State home hospital program.

(a) *General.* The Department of Veterans Affairs cannot participate in the construction of new State home hospitals. However, the Department of Veterans Affairs may participate in the remodeling, alteration, or expansion of existing State home hospitals.

(Authority: 38 U.S.C. 5034(2))

(b) *Hospital's nursing units.* Patient bedrooms may be grouped into distinct nursing units for general medical and surgical patients, and psychiatric patients. A 40-bed unit is most desirable; however, a range of 30–50 beds may be considered.

(Authority: 38 U.S.C. 5034(2))

(c) *Distribution of beds.* Single-bed rooms should be provided for patients who are infectious, terminal, or who for other reasons require separation.

(Authority: 38 U.S.C. 5034(2))

(d) *Construction requirements.* A State may use its own construction standards for a State hospital alteration or expansion if the plans are approved by the State's Department of Health and the State agency responsible for the State home hospital. The applicant should follow applicable National, State, and/or local codes for hospital construction, remodeling, and/or renovation.

(Authority: 38 U.S.C. 5034(2))

§ 17.180 Preapplication phase.

A State shall submit to the Department of Veterans Affairs a preapplication (SF–424, 424C, and 424D) for Federal assistance for each State home project if Federal participation exceeds $100,000. An original and two copies are required. Costs incurred for the project by the State after the date the Department of Veterans Affairs notifies the State that the project is feasible for Department of Veterans Affairs participation are allowable costs if the application is approved and the grant is awarded. These pre-award expenditures include architectural and engineering fees.

(Authority: 38 U.S.C. 5034(2))

(a) *Purpose.* A preapplication is required to determine the applicant's general eligibility, to establish communications between the Federal agency and the applicant, and to identify those proposals which are not feasible for Department of Veterans Affairs participation before the applicant incurs significant expenditures in preparing a formal application. The State shall submit to the Department of Veterans Affairs a letter designating the State Official authorized to apply for a State home construction or acquisition grant and a point of contact for all matters relating to a State home grant. If the authorized State official is changed, notice shall be provided in writing to the Department of Veterans Affairs.

(Authority: 38 U.S.C. 5034(2))

(b) *Preapplication requirements.* The preapplication shall include schematic drawings, a space program, and a needs assessment. States applying for Federal assistance for new State home beds shall provide justification for the beds by addressing the following areas:

(1) Demographic characteristics of the veteran population of the area;

(2) Availability and suitability of alternative health care providers and facilities in the area;

(3) Waiting lists for existing State home beds;

(4) Documentation that existing State home facilities in the State meet current codes and standards;

(5) Availability of acute medical care services and qualified medical care personnel to staff the proposed facility;

(6) Other information that may be required by the Assistant Chief Medical Director for Geriatrics and Extended Care in the Department of Veterans Affairs.

(Authority: 38 U.S.C. 5034(2))

(c) *Revisions to preapplications.* Grantees shall request approval from the Department of Veterans Affairs for significant revisions after preapplications have been submitted to the Department of Veterans Affairs. If the scope changes and/or cost estimates increase by more than 10 percent, a new preapplication may be required which will be subject to the same review and approval procedure as for the original preapplication.

(Authority: 38 U.S.C. 5034(2))

§ 17.181 Application phase.

(a) *General.* The applicant shall submit an original and two copies of the formal application (SF 424, 424C, and 424D) after the preapplication has been reviewed by the Department of Veterans Affairs and determined feasible for Department of Veterans Affairs participation. The application must meet the requirements of parts 43 and 44 of this chapter and include an updated space program, design development plans (35 percent), and specifications as outlined in paragraph (b) of this section.

(Authority: 38 U.S.C. 5034(2))

(b) *VA review.*—(1) *Program.* The applicant shall provide a narrative description of existing or planned program(s) at the facility and how this project will affect the operation of the existing State home (if applicable).

(2) *Cultural resources.* The applicant shall provide a letter and two copies from the State Historic Preservation Officer (SHPO) stating whether the project area includes any properties on, eligible for, or likely to meet the criteria for the National Register of Historic Places. If the property does, or may include, National Register quality properties, the letter from the SHPO should discuss the determination of effect of the proposed project on such property.

(3) *Design development site plan.* The applicant shall submit a site survey which has been performed by a licensed land surveyor. A description of the site shall be submitted noting the general characteristics of the site. This should include soil reports and specifications, easements, main roadway approaches, surrounding land uses, availability of electricity, water and sewer lines, and orientation. The description should also include a map locating the existing and/or new buildings, major roads, and public services in the geographic area. Additional site plans should show all site work including property lines, existing and new topography, building locations, utility data, and proposed grades, roads, parking areas, walks, landscaping, and site amenities.

(4) *Design development (35 percent) drawings.* The applicant shall provide to the Department of Veterans Affairs one set of sepias and eight sets of prints, rolled individually per set, to expedite the review process. The drawings shall indicate the designation of all spaces.

size of areas and rooms and indicate in outline the fixed and movable equipment and furniture. The drawings shall be drawn at ⅛" or ¼" scale. Bedroom and toilet layouts, showing clearances and UFAS requirements, should be shown ¼" scale. The total floor and room areas shall be shown in the drawings. The drawings shall include:

(i) Plan of any proposed demolition work,

(ii) A plan of each floor. For renovations, the existing conditions and extent of new work should be clearly delineated,

(iii) Elevations,

(iv) Sections and typical details,

(v) Roof plan,

(vi) Fire protection plans, and

(vii) Technical engineering plans, including structural, mechanical, plumbing, and electrical drawings.

If the project involves acquisition, remodeling, or renovation, the applicant should include the current as-built site plan, floor plans and building sections which show the present status of the building and a description of the building's current use and type of construction.

(5) Space program. The State shall submit a space program which includes a list of each room of area and the square feet proposed. The plan should note special or unusual services or equipment. The format should be similar to the Chart of Net Square Feed Allowed and room titles contained in § 17.183 (c)(5)(i) through (c)(5)(iii) of this part.

(6) *Design development outline specifications.* The applicant shall provide eight copies of outline specifications which shall include a general description of the project, site, architectural, structural, electrical, and mechanical systems such as elevators, nurses' call system, air conditioning, heating, plumbing, lighting, power, and interior finishers (floor coverings, acoustical material, and wall and ceiling finishes.).

(7) *Design development cost estimates.* Three copies of cost estimates shall be included in the application to the Department of Veterans Affairs. Estimates shall show the estimated cost of the buildings or structures to be acquired or constructed in the project. Cost estimates should list the cost of construction, contract contingency, fixed equipment not included in the contract, movable equipment, architect's fees, and construction supervision and inspection. Unless justified by the State, the Department of Veterans Affairs allowance for equipment not included in the construction contract shall not exceed 10 percent of the construction or acqusition contract cost. The Department of Veterans Affairs allowance for contingencies shall not exceed 5 percent of the total project cost for new construction for 8 percent of the total project cost for remodeling or renovation projects. If the project involves non-Federal participating areas, such costs should be itemized separately.

(8) *Design development conference.* After Department of Veterans Affairs review of the design development documents, a design development conference is recommended for all major projects. This will provide an opportunity for the applicants and their architects to learn Department of Veterans Affairs procedures and requirements for the project and to discuss Department of Veterans Affairs review comments. The material in paragraphs (b)(1) through (b)(7) of this section should be submitted for Department of Veterans Affairs review at least three weeks before the design development conference in the Department of Veterans Affairs Central Office in Washington, DC.

(Authority: 38 U.S.C. 5034(2))

(c) *Final review and approval (100% construction documents, bid tabulations and cost estimates).* (1) The applicant shall submit to the Department of Veterans Affairs for review and approval one labeled set of microfiche aperture cards, microfilm, or Compact Disc/Read Only Memory (CD/ROM) compact laser disc with 100% construction documents (plans and specifications). The applicant shall also submit three copies of: itemized bid tabulations; assurances of compliance with Federal requirements; and revised budget page (SF 424C) based on the selected bids. This should include final cost estimates for all time in the project. Three signed copies of the Memorandum of Agreement shall be submitted which reflect the total estimated cost of the project and the Department of Veterans Affairs participation in the total cost.

(2) Following approval of final construction documents, bid tabulations, and costs estimates, the Secretary will sign the Memorandum of Agreement awarding the grant and committing available Federal funds.

(Authority: 38 U.S.C. 5034(2))

(d) *Construction or acquisition.* The State shall enter into a construction or acquisition contract and begin construction or acquisition of the State home within 90 days after the final grant has been awarded by the Secretary of Veterans Affairs. Any delays beyond 90 days must be fully justified by the State and approved by the Department of Veterans Affairs or the grant may be rescinded.

(Authority: 38 U.S.C. 5034(2))

(e) *Grant revisions.* When significant deviations occur in the approved program or budget, the procedures set forth in these paragraphs shall apply.

(1) If a State has received the award of a construction or acquisition grant, the State shall request prior approval from the Department of Veterans Affairs for programmatic or budgetary revisions when the scope or objective of the project changes in a significant manner or when an approved line item budgeted amount increases or decreases by more than 10 percent. All grant modifications of this type shall be within the total contingency allowance of 5 percent for new construction or 8 percent for remodeling or renovation.

(2) In unusual and unanticipated circumstances, the Department of Veterans Affairs may participate in modifications to a grant that exceeds the contingency allowance by awarding a grant increase for the project. A grant increase will require an amended application from the State and complete justification, subject to the approval of the Department of Veterans Affairs. The amended application for a grant increase will be treated as an original application for the purpose of the priority list and the award of any additional Federal funds for the project.

(Authority: 38 U.S.C. 5035(e))

(f) *Final architectural and engineering inspection.* The grantee shall notify the Department of Veterans Affairs immediately upon completion of the project and request a final architectural and engineering inspection. This inspection is required prior to final payment under the construction or acquisition grant.

(Authority: 38 U.S.C. 5034(2))

§ 17.182 Equipment.

(a) *General.* Equipment necessary for the State home's planned effective operation shall be included in the cost of the project.

(Authority: 38 U.S.C. 5034(2))

(b) *Definition of equipment.* The term "equipment" as used in these regulations means all items necessary for the functioning of all services of the State home, including equipment as needed to provide for accounting and other records, and maintenance of buildings and grounds. The term "equipment" does not include

consumable supplies such as food, drugs, dressings, paper, printed forms, soap, and the like which are routinely required to operate the State home.

(Authority: 38 U.S.C. 5034(2))

(c) *Classification of equipment.* All equipment shall be classified in two groups as indicated below:

(1) *Fixed equipment (included in construction/acquisition contract).* Fixed equipment is permanently affixed to the building or is connected to service distribution systems designed and installed during construction (e.g., kitchen and intercommunication equipment, built-in casework, and cubicle curtain rods). The Federal share in the cost of such equipment, included in the construction contract, will be determined by the Department of Veterans Affairs percentage of participation in the aggregate cost of the project.

(2) *Movable and fixed equipment (not included in project contact).* Movable and fixed equipment may be purchased separately from the construction or acquisition contract and includes furniture, furnishings, wheeled equipment, kitchen utensils, linens, draperies, venetian blinds, electric clocks, pictures and trash cans. The Federal share in the cost of such equipment *not included* in the project contract will be limited to 10 percent of the project contract cost unless justified by the State and approved by the Department of Veterans Affairs.

(Authority: 38 U.S.C. 5034(2))

(d) *Purchase of equipment.* (1) The state shall select and purchase all equipment for the complete and effective functioning of services needed to operate the State home. The State may postpone purchasing of equipment until the facility is almost ready for occupancy to assure that the most current models of equipment are purchased. The equipment shall meet State standards. Title to all equipment purchased by the State with grant monies shall be vested to the State.

(2) The quality and amount of equipment shall be properly apportioned to the various services of the facility so that unduly expensive or elaborate equipment is not provided for some services at the expense of other services.

(Authority: 38 U.S.C. 5034(2))

(e) *Equipment list.* (1) Prior to the completion of the project, the State shall submit to the Department of Veterans Affairs for approval a separate, complete itemized list of fixed and movable equipment, *not included in the construction contract.* Fixed equipment shall be itemized by category of equipment with the estimated cost of each category or item and the total cost. Movable equipment shall be itemized according to the rooms or functional areas identified on the final drawings. The list shall show the quantity and estimated cost of each item. The quantity will be based on the actual number of units and number of beds in each unit.

(2) The Department of Veterans Affairs will review the equipment list to ascertain medical applicability, quantity, and cost of items. The quantity will be determined by the number of nursing or domiciliary units, the number of bed areas provided, and the items required to make constructed or acquired areas functional. Medical applicability will be determined by whether such items are normally found or used in the type of medical activity/area planned. The Department of Veterans Affairs may disapprove items on the equipment list, but the applicant will be given the opportunity to justify such item(s).

(Authority: 38 U.S.C. 5034(2))

§ 17.183 General design guidelines and standards.

(a) *General.* Nursing homes and domiciliaries should be planned to approximate the home atmosphere as closely as possible. These guidelines and standards include minimum requirements for site selection and development; architectural design including handicapped accessibility and allowable space criteria; structural, mechanical, and electrical design; plumbing systems and elevator requirements; fire safety criteria; and asbestos abatement rules. State homes to be constructed or acquired with Federal financial assistance shall comply with applicable National, State, and local codes. Such codes include building codes, electrical codes, seismic codes, fire and life safety codes, plumbing codes, and others.

(1) Except as provided in paragraphs (a)(1)(i) and (a)(1)(ii) of this section, in no case shall the total cost of remodeling exceed the cost of constructing a comparable new building or facility.

(i) If a building or facility is on or eligible for the National Register of Historic Places, the total cost of remodeling, renovating, or adapting it may exceed the cost of comparable new construction by five percent.

(ii) If the demolition of a building on or eligible for the National Register of Historic Places is necessary, the cost to professionally record the building for the Historic American Buildings Survey (HABS) plus the total cost for demolition and site restoration shall be included by the State in calculating the total cost of new construction.

(2) The cost of routine maintenance and replacement of mechanical, electrical, structural and architectural work, or maintenance and repair of any building system or equipment will not be considered as a cost for construction or acquisition for a State home grant application. The Department of Veterans Affairs may waive this requirement if it is determined that the work is necessary to comply with standards of life safety or quality patient care or is involved inextricably with the construction or acquisition project.

(b) *Site selection and development—* (1) *Site accessibility.* The site should be located in a safe, secure, residential-type area which is accessible to acute medical care facilities, community activities and amenities, and transportation facilities typical of the area.

(2) *Mineral rights.* The State shall establish whether the site is subject to mineral rights which have not been developed and include a report on the mineral rights as part of the formal application.

(3) *Limitations.* The State should avoid sites that are near insect-breeding areas, noise or other industrial developments: airports, railways or highways producing noise or air pollution; or potential flood hazards. In the event that these site related disadvantages cannot be avoided, adequate provision will be made to eliminate or minimize the condition.

(4) *Alternatives.* The State shall look at alternative sites for the State home unit and submit a report on these sites to the Department of Veterans Affairs for review early in the application phase.

(5) *Demolition plan.* The cost of demolition of a building cannot be included in the cost of construction unless the proposed construction is in the same location as the building to be demolished or unless the demolition is inextricably linked to the design of the construction project. If the State believes that this cost may be included in the cost of the construction project, a demolition plan should be submitted which includes the extent and cost of existing site features to be removed, stored, or relocated.

(6) *Asbestos abatement.* For existing buildings, a certified industrial hygienist shall be hired for assessment, design,

cost estimate, and construction monitoring for asbestos abatement. The abatement process shall follow EPA, OSHA, State, and local regulations and guidelines.

(c) *Architectural requirements.* (1) *Finishes.* Walls shall be washable or easily cleaned and smooth. Walls in kitchens and related spaces shall have glazed materials or similar finish and bases shall be waterproof and free from voids. Walls subjected to wetting should also be glazed to a point above the splash or spray line. Wainscots of durable material should be used in patient corridors and other corridors where there is considerable wheeled traffic. Emphasis should be placed on the use of materials for walls and floors that are safe, sanitary, and noise-reducing. The color scheme should provide an attractive and therapeutic environment for elderly patients.

(2) *Handicapped accessibility.* All State home facilities shall provide necessary ingress, egress, and movement throughout the facility for the physically handicapped and elderly in compliance with the Uniform Federal Accessibility Standards (UFAS). Disabled persons shall be provided with access and use that is independent, convenient, and substantially equivalent to that provided other persons.

(3) *Doors.* All doors should be easy to open and in accordance with UFAS requirements.

(4) *Exits.* Exit facilities shall meet the applicable provisions of the 1988 edition of the National Fire Protection Association's Life Safety Code, NFPA 101, including NFPA 101 M, Alternative Approaches to Life Safety (which are incorporated by reference). Incorporation by reference of the 1988 edition of the Life Safety Code including NFPA 101M was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. The Code is available for inspection at the Office of the Federal Register, Room 8301, 1100 L Street, NW, Washington, DC. Copies may be obtained from the National Fire Protection Association, Battery March Park, Quincy, MA 02269. If any changes in this Code are also to be incorporated by reference, a notice to that effect will be published in the **Federal Register.**

(5) Space program criteria. (i) *General.* The Chart at paragraph (c)(5)(iii) of this section shows the net square footage allowed for Department of Veterans Affairs participation in the cost of the State nursing homes and domiciliaries.

(ii) *Deviations.* Any deviation from these space criteria of more or less than 10 percent, except to meet a more stringent State or local requirement, must be justified by the State and approved by the Department of Veterans Affairs if the space is to be included in the cost of construction. The Assistant Chief Medical Director for the Office of Geriatrics and Extended Care may approve a deviation if it will improve the safety, quality of care, or quality of life provided to veterans in a State home. If a deviation is not approved by the Department of Veterans Affairs, the cost of questionable space will not be included and the percentage of Federal participation may be reduced.

(iii) *Chart of net square feet (NSF) allowed.*

I. Support Facilities	Non-Convertible Domiciliary (DOM)	Convertible DOM/ Nursing Home
(Maximum Allowable Square Feet per Facility for VA Participation)		
Administrator's Office	200	200
Assistant Administrator	150	150
Medical Officer, Director of Nursing or Equivalent	150	150
Nurse's Office and Dictation Area	120	120
General Administration (each office/person)	120	120
Clerical Staff (each)	80	80
Computer Area	40	40
Conference Room/Consultation Area In-Service Training	300 (per facility)	500 (per facility)
Lobby/Waiting Area	3 (per bed)	3 (per bed)
	(150 min./600 max. per facility)	
Public/Patient Toilets (male/female)	25 (per fixture)	25 (per fixture)
Pharmacy	0	(As required)
Dietetic Service	(As required)	(As required)
Dining Area	20 (per bed)	20 (per bed)
Canteen/Retail Sales	2 (per bed)	2 (per bed)
Vending Machines	1 (per bed)	1 (per bed)
	(450 maximum per facility)	
Resident Toilets (male/female)	25 (per fixture)	25 (per fixture)
Child Daycare	(As required)	(As required)
Medical Support	140 (each)	140 (each)
(Staff offices/exam/treatment room/family counseling, etc.)	120 (each)	120 (each)
Barber and/or Beauty Shops	140	140
Mail Room	120	120
Janitors Closet	40	40
Multipurpose Room	15 (per bed)	15 (per bed)
Employee Lockers	6 (per employee)	6 (per employee)
Employee Lounge	120	120
	(Maximum 500 per facility)	
Chapel	450	450
Physical Therapy	2.5 (per bed)	5 (per bed)
(Office if required)	120	120
Occupational Therapy	5 (per bed)	5 (per bed)
(Office if required)	120	120
Library	1.5 (per bed)	1.5 (per bed)
Building Maintenance Storage	2.5 (per bed)	2.5 (per bed)
Resident Storage	6 (per bed)	6 (per bed)
General Warehouse Storage	6 (per bed)	6 (per bed)
(medical/dietary)	7 (per bed)	7 (per bed)
General Laundry	(As required)	(As required)
II. Bed Units (50 beds)	Domiciliary	Nursing Home
One	150	150
Two	230	245

I. Support Facilities	Non-Convertible Domiciliary (DOM)	Convertible DOM/ Nursing Home
Large two-bed (2 per unit)	0	305
Three	340	370
Four	450	460
Lounge Areas Resident Lounge w/Storage	8 (per bed)	8 (per bed)
Resident Quiet Room	3 (per bed)	3 (per bed)
Clean Utility	120	120
Soiled Utility	105	105
Linen Storage	90	150
General Storage	100	100
Nurses Station, Ward Secretary	0	260
Medication Room	0	75
Waiting Area	50	50
Unit Supply and Equipment	50	50
Staff Toilet	25 (per fixture)	25 (per fixture)
Stretcher/Wheelchair Storage	75	100
Kitchenette	150	120
Janitor's Closet	40	40
Resident Laundry	125	125
Trash Collection	60	60
III. Bathing and Toilet Facilities [1] Type	Domiciliary	Nursing Home
A. Private or Shared Facilities		
Wheelchair Facilities	25 (per fixture)	25 (per fixture)
Standard Facilities	15 (per fixture)	15 (per fixture)
B. Full Bathroom	75	75
C. Congregate Bathing Facilities		
First Tub/Shower	80	80
Each Additional Fixture	25	25

[1] Bathing and Toilet Facilities must comply with the Uniform Federal Accessibility Standards.

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Notices

Federal Register
Vol. 55, No. 92
Friday, May 11, 1990

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF COMMERCE

Bureau of Export Administration

[Docket Nos. 9122-01, 9122-02, 9122-03]

Action Affecting Export Privileges of Paavo Olavi Manner, et al.

Summary

Pursuant to the April 12, 1990 Recommended Decision and Order of the Administrative Law Judge (ALJ), which is attached hereto and affirmed by me as modified below, Paavo Olavi Manner, individually and doing business as Lator Oy and Oy Inter-Zenith, Ltd., and all successors, assignees, officers, partners, representatives, agents and employees are hereby denied for a period of ten years from the date hereof all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported from the United States in whole or in part, or to be exported, or that are otherwise subject to the Export Administration Regulations (15 CFR parts 768–799). This action is further subject to the other conditions enumerated in the Recommended Decision and Order of the ALJ.

Order

On April 12, 1990, the ALJ entered his Recommended Decision and Order in the above-referenced matter. The Decision and Order, a copy of which is attached hereto and made a part hereof, has been referred to me for final action.

I hereby modify the title of the ALJ's Decision by deleting "Default."

I hereby modify the ALJ's Decision further by deleting the second and third paragraphs and inserting in lieu thereof the following:

Respondent filed a timely answer to the Agency's charging letter on November 2, 1989, but failed to challenge the jurisdiction of the Finnish court, or to refute that the "international disclosures" for which Manner, Perovuo, and Ahlberg were convicted in the Finnish court were based on the reexports and conspiracies to reexport alleged in the Agency's charging letter. These allegations in the Agency's charging letter are supported by documentary evidence submitted by the Agency, as explained below.

Having examined the record and based on the facts in this case, I affirm the Recommended Decision and Order of the ALJ as thus modified.

This constitutes final agency action in this matter.

Dated: May 2, 1990.

Dennis E. Kloske,

Under Secretary for Export Administration.

DEFAULT DECISION AND ORDER

In the Matter of: Paavo Olavi Manner, Docket No. 9122-01, individually and doing business as Lator Oy, Oy Inter-Zenith, Ltd., 9122-02, 9122-03, Respondent.

Appearance for Respondent: Paavo Olavi Manner, Ukonkivenpolku 2 I 65, 01610 Vantaa, Finland.

Appearance for Agency: Pleasant S. Broadnax, III, Attorney-Advisor, Office of Chief Counsel for Export Administration, U.S. Department of Commerce, Room H-3839, 14th & Constitution Avenue NW., Washington, DC 20230.

Preliminary Statement

In separate charging letters the Office of Export Enforcement charged Paavo Olavi Manner, Rainier P. Perovuo, George B. Ahlberg, and their affiliated companies with various violations of the Export Administration Act and implementing regulations.[1] The evidence developed reflects that criminal proceedings were initiated and convictions obtained respecting the three named individuals in the criminal courts of Finland, which had jurisdiction of the persons and those aspects of the violations which related to violations of the criminal law. As noted in the administrative proceeding, *In the Matter of Spawr Optical Research, Inc.*, 51 FR 7477 (1986), and subsequent federal court decision, *Spawr Optical Research, Inc.* v. *Baldridge*, 649 F. Supp. 1366 (D.D.C. 1986), the determination of a Court of competent jurisdiction is not subject to redetermination before this administrative Tribunal.

No answer has been filed, nor has Respondent replied or commented on the filings made. He is in default and it is appropriate that an Order be entered in these proceedings pursuant to § 788.8 of the Regulations. Section 788.8 of the Regulations provides:

Default (a) General

If a timely answer is not filed, the department shall file with the Administrative Law Judge a proposed Order together with the supporting evidence for the allegations in the charging letter. The Administrative Law Judge may require further submissions and shall issue any Order he deems justified by the evidence of record, any Order so issued shall have the same force and effect as an Order issued following the disposition of contested charges.

Pursuant to that section, Agency Counsel filed a Motion for Default Judgment on March 28, 1990. The Agency also submitted documentary evidence to support the allegations made in the charging letter.

Facts

In response to an Order on inquiry made prior to April 5, 1985, Hewlett Packard initiated reexport of the following U.S.-origin Hewlett Packard products from its West German subsidiary (Hewlett Packard GmbH) to Respondent Manner in Finland: a data generator, model No. 8180-A; a data generator extender, model No. 8181-A; a data generator analyzer, model No. 8182-A; and peripheral equipment (Agency Ex. 2). On April 5, 1985, Hewlett Packard applied to the Department of Commerce for authorization to reexport those three data generator devices and the peripheral equipment from West Germany to Manner in Finland (*Id.*). The application was rejected because Manner was "not considered a suitable recipient of U.S.-origin national security controlled commodities." (Agency Ex. 3.) Subsequently, Hewlett Packard GmbH transferred the same data generator devices to Scientific and Technical Equipment Trading GmbH (STET) in West Germany, who, in turn, reexported the equipment to Manner in Finland (Agency Exs. 4 (a) and (b) and 5).

[1] The charging letter against this Respondent was initially issued on June 20, 1989, and again on August 2 and September 28, 1989, apparently because addresses were not sufficient. Service was effected on October 6, 1989. He was initially charged in 8 separate specifications. Upon review of the criminal conviction from Finland, four of the charges were withdrawn by the Agency. The charges respecting Ahlberg and Perovuo have been adjudicated separately. *See In the Matter of Ahlberg, individually and doing business as Ahlberg Oy.* 55 FR 8504 (1990); *In the Matter of Perovuo, individually and doing business as Perosov Oy.* 55 FR 8508 (1990).

On or about November 8, 1985, the Hewlett Packard products were reexported by Manner and Perovuo to the Soviet Union (Agency Exs. 2 and 7 (a) and (b)). The Hewlett Packard data generator devices were controlled items and the reexport from Finland to the Soviet Union required authorization from the Department of Commerce at that time (Agency Ex. 8).

The reexport to the Soviet Union is also evidenced by a Finnish Customs export report which shows that Manner shipped the equipment to V/O Mashpriborintorg in Moscow on November 8, 1985 (Agency Exs. 6 and 7).

In October 1986, Manner purchased a Digital Equipment Corporation (hereinafter DEC) VAX 11/750 computer system for 450,000 Finnish marks from Tekla Oy, a Finnish company (Agency Exs. 9 and 10 (a) and (b)). The system, which was a controlled item requiring reexport authorization from the Department before it could be shipped to the Soviet Union from Finland, included a central procession unit (CPU), and a console (Agency Exs. 10 and 11). Pursuant to their conspiratorial agreement, Manner and Perovuo arranged for this equipment to then be reexported to the Soviet Union by Ahlberg (Agency Exs. 1, 13, 14, and 15 (a) and (b)).

On October 30, 1986, Ahlberg prepared an invoice to reflect the shipment of a "Pagitron" computer system consisting of, among other items, a CPU and a console, to ITALTRADE Ltd., in Moscow (Agency Ex. 14). The value of the system (for customs purposes) was listed as 450,000 Finnish marks (*Id.*). That description and value of the equipment shows that this was the same DEC VAX 11/750 computer Manner and Perovuo had acquired from Tekla Oy (compare Agency Ex. 9 with Agency Ex. 14). A Finnish Customs export report prepared in conjunction with that reexport of the VAX 11/750 by Perovuo, Manner, and Ahlberg shows that it was shipped to the Soviet Union on October 31, 1986, by Ahlberg's company, George Ahlberg Oy (Agency Exs. 15 (a) and (b)).

On March 3, 1989, Manner, Perovuo, and Ahlberg were convicted by a Finnish court of "[a] continued offense which comprises international disclosures of information to be kept secret from a foreign state due to the protection of the economic and scientific interests and to the external security in Finland, made to benefit a foreign state, and international engaging in procurement of such information that can endanger the relations of Finland with a foreign state, made to benefit a foreign state" (Agency Ex. 1).

When the record of the Finnish conviction is examined in light of the evidence described above, it becomes clear that the "international disclosures" for which Manner, Perovuo, and Ahlberg were convicted were based on the reexports and conspiracies to reexport alleged in the charging letter.

Conclusion

Based on the facts of the record I conclude that, in 1985 Manner conspired with Rainer Peter Perovuo, individually and doing business as Perosov Oy (Perovuo), to reexport U.S.-origin Hewlett Packard products from Finland to the Soviet Union without obtaining the authorization required by § 774.1(a) of the Regulations. Manner then reexported those Hewlett Packard commodities from Finland to the Soviet Union without obtaining the authorization required by § 774.1(a) of the Regulations.

In 1987, Manner conspired with Perovuo and George Ahlberg, individually and doing business as George Ahlberg Oy (Ahlberg), to reexport a U.S.-origin Digital Equipment computer from Finland to the Soviet Union without obtaining the authorization required by § 774.1(a) of the Regulations. Manner then reexported the Digital Equipment computer from Finland to the Soviet Union without obtaining the authorization required by § 774.1(a) of the Regulations.

Those activities constituted two violations of § 787.3(b) (the conspiracy charges) and two violations of § 787.6 (the reexport charges) of the Regulations, for a total of four violations, each of which involved U.S.-origin commodities controlled under section 5 of the Export Administration Act of 1979, as amended (50 U.S.C.A. 2401–2420 (Supp. 1989)), for national security reasons.

These deliberate violations warrant denial of participation in export of the United States goods and technologies for ten years.

Order

I. For a period of ten years from the date of the final Agency action, Respondent

Paavo Olavi Manner, individually and doing business as Lator Oy and Oy Inter-Zenith, Ltd., Ukonkivenpolku 2 I 65, 01610 Vantaa, Finland

and all successors, assignees, officers, partners, representatives, agents, and employees hereby are denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported from the United States in whole or in part, or to be exported, or that are otherwise subject to the Regulations.

II. Participation prohibited in any such transaction, either in the United States or abroad, shall include, but not be limited to, participation:

(i) As a party or as a representative of a party to a validated or general export license application;

(ii) In preparing or filing any export license application or request for reexport authorization, or any document to be submitted therewith;

(iii) In obtaining or using any validated or general export license or other export control document;

(iv) In carrying on negotiations with respect to, or in receiving, ordering, buying, selling, delivering, storing, using, or disposing of, in whole or in part, any commodities or technical data exported from the United States, or to be exported; and

(v) In the financing, forwarding, transporting, or other servicing of such commodities or technical data. Such denial of export privileges shall extend to those commodities and technical data which are subject to the Act and the Regulations.

III. After notice and opportunity for comment, such denial of export privileges may be made applicable to any person, firm, corporation, or business organization with which the Respondent is now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of trade or related services.

IV. All outstanding individual validated export licenses in which Respondent appears or participates, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Export Licensing for cancellation. Further, all of Respondent(s)'s privileges of participating, in any manner or capacity, in any special licensing procedure, including, but not limited to, distribution licenses, are hereby revoked.

V. No person, firm, corporation, partnership, or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Office of Export Licensing, shall, with respect to commodities and technical data, do any of the following acts, directly or indirectly, or carry on negotiations with respect thereto, in any manner or capacity, on behalf of or in any association with any Respondent or any related person, or whereby any Respondent or any related person may

obtain any benefit therefrom or have any interest or participation therein, directly or indirectly:

(i) Apply for, obtain, transfer, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to any export, reexport, transshipment, or diversion of any commodity or technical data exported in whole or in part, or to be exported by, to, or for any Respondent or related person denied export privileges, or

(ii) Order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance or otherwise service or participate in any export, reexport, transshipment or diversion of any commodity or technical data exported or to be exported from the United States.

VI. This Order as affirmed or modified shall become effective upon entry of the Secretary's final action in this proceeding pursuant to the Act (50 U.S.C.A. app. 2412(c)(1)).

Dated: April 12, 1990.

Hugh J. Dolan,

Administrative Law Judge.

To be considered in the 30 day statutory review process which is mandated by section 13(c) of the Act, submissions must be received in the Office of the Under Secretary for Export Administration, U.S. Department of Commerce, 14th & Constitution Avenue NW., Room 3898B, Washington, DC 20230, within 12 days. Replies to the other party's submission are to be made within the following 8 days. 15 CFR 788.23(b), 50 FR 53134 (1985). Pursuant to section 13(c)(3) of the Act, the order of the final order of the Under Secretary may be appealed to the U.S. Court of Appeals for the District of Columbia within 15 days of its issuance.

[FR Doc. 90-10989 Filed 5-10-90; 8:45 am]

BILLING CODE 3510-DT-M

[Docket No. 90916-92161]

Short Supply Export Controls; Investigation of Unprocessed Timber Exports From All Public Lands in Oregon and Washington

AGENCY: Office of Industrial Resource Administration, Bureau of Export Administration, Commerce.

ACTION: Notice of extension of public comment period on the Unprocessed Timber Exports Short Supply Investigation.

SUMMARY: This notice announces the extension of the public comment period in connection with this investigation and requests comments from interested persons on specific issues.

DATES: The record will be kept open until July 1, 1990, to accept comments from interested persons.

ADDRESSES: Send comments to Brad Botwin, Director, Strategic Analysis Division, Office of Industrial Resource Administration, room H-3878, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Bernard Kritzer, Senior Policy Advisor, Office of Industrial Resource Administration, room H-3878, U.S. Department of Commerce, Washington, DC 20230, (202) 377-4060.

SUPPLEMENTARY INFORMATION:

I. Background and Specific Comments Requested

The Northwest Independent Forest Manufacturers (NIFM), a trade group representing 163 independent forest manufacturers in Oregon and Washington, filed a petition under sections 7 and 3(2)(C) of the Export Administration Act of 1979 (Act) for export restrictions on unprocessed timber harvested from all public lands. The Department accepted the petition on September 29, 1989, and has initiated an investigation under sections 7 and 3(2)(C) of the Act. For further details, see **Federal Register** notices of September 29, 1989 (54 FR 40152-53), and of December 19, 1989 (54 FR 51906-8).

The Department held public hearings in Portland, Oregon and Seattle, Washington on January 31 and February 1, 1990, respectively. A total of 25 and 47 witnesses testified in Portland and Seattle, respectively, concerning whether log exports were causing domestic shortages and higher prices. At the hearings, the Department requested supplemental information from some witnesses. The Department has received this information and has: (1) Made it available for public inspection; and (2) given interested parties until May 12, 1990, to comment on it.

There has been a recent development which could affect this investigation. The Interagency Committee of Scientists on the Spotted Owl has recommended: (1) That the owl be declared an endangered species; and (2) that Federal Forest Service and Bureau of Land Management timberlands be set aside to establish habitat conservation areas to save the owl. Because of the probability that large set asides of Federal timberland in the Pacific Northwest could affect the size of the log harvest from Federal lands, it would be useful to obtain public comment on this issue.

In particular, but without limiting the scope of the information requested, we solicit information on the following:

(a) The likely effect on Pacific Northwest and overall U.S. timber supply of a probable listing of the Spotted Owl as an endangered species;

(b) The estimated effect of a probable reduction in timber supply on: (i) The acquisition costs of logs by domestic sawmills in the United States generally, and in the Pacific Northwest in particular; (ii) the financial viability of sectors of the domestic forest products industry; and (iii) the employment, infrastructure (transportation/ports), and state government responsibilities; and

(c) The probable effect of other factors on the availability of unprocessed logs in the Pacific Northwest.

II. Scope of Investigation

This investigation includes logs of tree species harvested from public lands in Oregon and Washington. The Schedule B commodity description includes logs and timber, in the rough, split, hewn, roughly sided or squared, but excludes lumber. The Schedule B commodity numbers are: 200.3504 Ponderosa Pine (Pinus ponderosa); 200.3506 Pine Other; 200.3508 Spruce (Picea spp.); 200.3510 Douglas-fir (Psuedotsuga menziesii); 200.314 Western Hemlock (Tsuga heterophylla); 200.316 Western Red Cedar (Thuja plicata); 200.3518, Softwood Other; and 200.3536 Hardwood Other (Alder).

The subject commodities are described in the Harmonized Tariff Schedule of the United States as wood in the rough whether or not stripped of bark or sapwood, or roughly squared, which include: 4403.20.00/25/2 Ponderosa Pine (Pinus ponderosa); 4403.20.00/30/5 Pine Other; 4403.20.00/35/0 Spruce (Picea Spp.); 4402.20.00/40/3 Douglas-fir (Pseudotsuga menziesii); 4403.20.00/50/0 Western Hemlock (Tsuga heterophylla); 4403.20.00/55/5 Western Red Cedar (Thuja plicata); 4403.20.00/60/8 Logs & Timber Other; and 4403.99.00/50/6 Western Red Alder (Alnus Rubra).

In compliance with section 7(i) of the EAA, the Department maintains quantitative restrictions on the export of unprocessed western red cedar logs harvested from Federal and State lands. Western red cedar logs are deemed not to be an agricultural commodity pursuant to section 7(g) of the EAA. However, the commodities subject to this investigation do not fall within that

statutory provision and thus will be treated as agricultural commodities. Under section 7(g), the Secretary may not exercise short supply controls with respect to any agricultural commodity without the approval of the Secretary of Agriculture.

III. Comment Procedures

1. Procedure for Requesting Participation

Interested public participants are encouraged to submit their written comments. Please submit by July 1, 1990, 10 written copies of your written comments to the Burau of Export Administration's Freedom of Information Records Inspection Facility, Attn: Margaret Cornejo, U.S. Department of Commerce, room H-4886, 14th Street and Constitution Avenue NW., Washington, DC 20230, telephone (202) 377-2593. All comments received will be available for public inspection in the Freedom of Information Records Inspection Facility, between the hours of 8:30 a.m. and 4:30 p.m., Monday through Friday.

Identify separately any information you consider to be company confidential and submit it in writing, one copy only. We reserve the right to return information if we do not deem it to be business confidential.

Dated: May 8, 1990.

Iain S. Baird,

Acting Deputy Assistant Secretary for Export Administration.

[FR Doc. 90-11130 Filed 5-10-90; 8:45 am]

BILLING CODE 3510-DT-M

Foreign-Trade Zones Board

[Docket No. 11-90]

Foreign-Trade Zone 78; Nashville, TN; Application for Subzone Form Rite Automotive Tubing Parts Plant, Hawkins County, TN

The public comment period for the above case (55 FR 11632, March 2, 1990), involving a proposed special-purpose subzone for the automotive tubing components manufacturing plant of Form Rite Corporation in Hawkins County, Tennessee, is extended to June 6, 1990, to allow interested parties additional time in which to comment on the proposal.

Comments in writing are invited during this period. Submissions shall include 5 copies. Material submitted will be available at: Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 2835, 14th and Pennsylvania Avenue NW., Washington, DC 20230.

Dated: May 4, 1990.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 90-10987 Filed 5-10-90; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

[C-351-037]

Certain Cotton Yarn Products From Brazil; Preliminary Results of Countervailing Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of Preliminary Results of Countervailing Duty Administrative Review.

SUMMARY: The Department of Commerce has conducted an administrative review of the countervailing duty order on certain cotton yarn products from Brazil for the period January 1, 1987 through December 31, 1987. The Department has preliminarily determined the net subsidy to be zero or *de minimis* for four firms and 2.36 percent *ad valorem* for all other firms. We invite interested parties to comment on these preliminary results.

EFFECTIVE DATE: May 11, 1990.

FOR FURTHER INFORMATION CONTACT: Philip Pia or Paul McGarr, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On February 1, 1990, the Department of Commerce ("Department") published in the **Federal Register** (55 FR 3442) the final results of its last administrative review of the countervailing duty order on certain cotton yarn products from Brazil (42 FR 14089; March 15, 1977). On March 29, 1988, the petitioner, the American Yarn Spinners Association, requested an administrative review of the order. We published the initiation on April 27, 1988 (53 FR 15084). The Department has now conducted that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of Review

Imports covered by this review are shipments of Brazilian yarn, carded but not combed, wholly of cotton. During the review period, such merchandise was classifiable under items 301.01 through 301.98, inclusive, and under item 302.— with statistical suffixes 20, 22, and 24 of the *Tariff Schedules of the United States*. This merchandise is currently classifiable under *Harmonized Tariff Schedule* (HTS) items 5205.11.10, 5202.11.20, 5205.12.10, 5205.12.20, 5205.13.10, 5205.13.20, 5205.14.10, 5205.14.20, 5205.15.10, 5205.15.20, 5205.31.00, 5205.32.00, 5205.33.00, 5205.34.00, and 5205.35.00. The HTS items are provided for convenience and Customs purposes. The written description remains dispositive.

The review covers the period January 1, 1987 through December 31, 1987 and sevel programs: (1) CACEX export financing; (2) an income tax exemption for export earnings; (3) BEFIEX; (4) the IPI export credit premium; (5) CIC-OPCRE 6-2-6 financing; (6) Price Equalization Program; and (7) FST financing.

Analysis of Programs

(1) CACEX Preferential Working Capital Financing for Exports

Under this program, the Department of Foreign Commerce ("CACEX") of the Banco do Brasil provides short-term working capital financing to exporters at preferential rates. The loans have a term of one year or less.

On May 2, 1985, Resolution 1009 made CACEX working capital financing available through commercial banks at prevailing market rates, with interest due at maturity. It authorized the Banco do Brasil to pay the lending institution an "equalization fee," or rebate, of up to 15 percentage points of the commercial interest rate, which the lending institution could pass on to the borrowers.

Since the interest charged on CACEX export financing under Resolution 1009 is at prevailing market rates, this program would not be countervailable absent the equalization fee and the exemption from the IOF (a general tax on financial transactions). Therefore, the interest differential for those loans is equal to the equalization fee plus the 1.5 percent IOF. Because this program provides financing at preferential rates only to exporters, we preliminarily determine that it is countervailable. During the period of review, four cotton yarn exporters made interest payments on CACEX loans.

We consider the benefit from loans to occur when the borrower makes the interest payments. For CACEX loans on which interest was paid during the period of review, we multiplied the interest differential by the loan principal. We allocated the result over each firm's total exports and then weight-averaged the benefits by each

firm's share of exports of the subject merchandise to the United States. On this basis, we preliminarily determine the benefit from this program to be 0.84 percent *ad valorem* for all firms except those with zero or *de minimis* aggregate benefits.

On November 30, 1988, CACEX reduced the equalization fee to 7.5 percentage points. For purposes of the cash deposit of estimated countervailing duties, we preliminarily determine the benefit from this program to be 0.46 percent *ad valorem* for all firms except those with zero or *de minimis* aggregate benefits.

(2) Income Tax Exemption for Export Earnings

Under this program, exporters of cotton yarn are eligible for an exemption from income tax on the portion of their profits attributable to exports. The Brazilian government calculates the tax-exempt fraction of profit as the ratio of export revenue to total revenue. Because this program provides tax exemptions that are limited to exporters, we preliminarily determine that it is countervailable.

The nominal corporate tax rate in Brazil in 1987 was 35 percent. However, Brazilian tax law permits companies to reduce their income taxes by investing up to 26 percent of their tax liability in specified companies and funds. This tax credit effectively reduces the nominal 35 percent corporate tax rate. The six cotton yarn exporters that claimed this exemption on their tax returns filed in 1987 invested in the specified companies and funds, and their effective tax rate was lower than the nominal 35 percent rate during the period of review.

We calculated the effective tax rate for each firm by dividing the net tax liability by taxable profit. We calculated the benefit by multiplying the amount of tax-exempt profit by the effective tax rate and allocating the result over each firm's total exports. We then weight-averaged the benefits by each firm's share of exports of the subject merchandise to the United States. On this basis, we preliminarily determine the benefit from this program to be 0.42 percent *ad valorem* for all firms except those with zero or *de minimis* aggregate benefits.

(3) BEFIEX

The Commission for the Granting of Fiscal Benefits to Special Export Programs ("BEFIEX") allows Brazilian exporters, in exchange for export commitments, to take advantage of several types of benefits, such as import duty reductions and accelerated depreciation for machinery used in the production of exports. Two cotton yarn exporters received import duty and IPI tax reductions by virtue of their BEFIEX contracts during the review period.

To calculate the benefit, we divided the amount of import duty and IPI tax reductions received in 1987 by that firm's total exports in 1987. Then weight-averaged the benefits by each firm's share of exports of the subject merchandise to the United States. On this basis, we preliminarily determine the benefit to be 1.10 percent *ad valorem* for all firms except those with zero or *de minimis* aggregate benefits.

(4) Other Programs

We examined the following programs and preliminarily determine that exporters of cotton yarn did not use them during the review period:

a. CIC–OPCRE 6–2–6 financing; and
b. FST financing.

We verified that the Price Equalization Program and the IPI export credit premium were terminated in 1985.

Preliminary Results of Review

As a result of our review, we preliminarily determine the net subsidy to be zero or *de minimis* for the four firms listed below and 2.36 percent *ad valorem* for all other firms:

(1) Unitika do Brazil Industria Textil Ltda.;
(2) Cia. Industrial e Agricola Boyes;
(3) Minasa Trading S.A.; and
(4) filobel Comercial Ltda.

The Department intends to instruct the Customs Service to liquidate, without regard to countervailing duties, shipments of Brazilian carded cotton yarn from the four firms listed above, and to assess countervailing duties of 2.36 percent of the f.o.b. invoice price on shipments from all other firms exported on or after January 1, 1987 and on or before December 31, 1987.

The Department also intends to instruct the Customs Service to waive cash deposits of estimated countervailing duties on shipments of this merchandise from the four firms listed above and, as a result of the reduction in the equalization fee for CACEX export financing, to collect a cash deposit of estimated countervailing duties of 1.98 percent of the f.o.b. invoice price on shipments from all other firms entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

Parties to the proceeding may request disclosure of the calculation methodology and interested parties may request a hearing not later than 10 days after date of publication of this notice. Interested parties may submit written arguments in case briefs on these preliminary results within 30 days of the date of publication. Rebuttal brief, limited to arguments raised in case briefs, may be submitted seven days after the time limit for filing the case brief. Any hearing, if requested, will be held seven days after the scheduled date for submission of rebuttal briefs. Copies of case briefs and rebuttal briefs must be served on interested parties in accordance with 19 CFR 355.38(e). Any request for disclosure under an administrative protective order must be made no later than five days after the date of publication. The Department will publish the final results of this administrative review including the results of its analysis of issues raised in any case or rebuttal brief or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 355.22.

Dated: May 3, 1990.

Lisa B. Barry,

Acting Assistant Secretary for Import Administration.

[FR Doc. 90–10986 Filed 5–10–90; 8:45 am]
BILLING CODE 3510–DS–M

[C–403–802]

Postponement of Preliminary Countervailing Duty Determination: Fresh and Chilled Atlantic Salmon from Norway

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: Based upon the request of petitioner, The Coalition for Fair Atlantic Salmon Trade, the Department of Commerce (the Department) is postponing its preliminary determination in the countervailing duty investigation of fresh and chilled Atlantic salmon from Norway. The preliminary determination will be made on or before June 21, 1990.

EFFECTIVE DATE: May 11, 1990.

FOR FURTHER INFORMATION CONTACT: Elizabeth Graham or Rick Herring, Office of Countervailing Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC 20230; telephone (202) 377–4105 or 377–3530.

SUPPLEMENTARY INFORMATION: On March 20, 1990, the Department initiated a countervailing duty investigation of fresh and chilled Atlantic salmon from Norway. In our notice of initiation we

stated that we would issue our preliminary determination on or before May 24, 1990 (55 FR 11423, March 28, 1990).

On April 30, 1990, petitioner filed a request that the preliminary determination in this investigation be postponed to not later than June 21, 1990.

Section 703(c)(1)(A) of the Tariff Act of 1930, as amended (the Act), provides that the preliminary determination in a countervailing duty investigation may be postponed where the petitioner has made a timely request for such a postponement. Pursuant to this provision, and the timely request made by petitioner in this investigation, the Department is postponing its preliminary determination to not later than June 21, 1990.

This notice is published pursuant to section 703(c)(2) of the Act.

Dated: May 2, 1990.

Lisa B. Barry,

Acting Assistant Secretary for Import Administration.

[FR Doc. 90-10985 Filed 5-10-90; 8:45 am]

BILLING CODE 3510-DS-M

National Institute of Standards and Technology

[Docket No. 60117-0084]

RIN No. 0693-AA48

Federal Information Processing Standard _____, C

AGENCY: National Institute of Standards and Technology (NIST), Commerce.

ACTION: Notice of proposed Federal Information Processing Standard _____, C.

SUMMARY: A Federal Information Processing Standard (FIPS) for the programming language C is being proposed for Federal use. This proposed FIPS adopts the American National Standard for C (ANSI X3.159-1989). This standard is a voluntary industry standard developed by the X3J11 Committee accredited by ANSI as a standards sponsor. This standard will be added to the current family of Federal Information Processing Standard (FIPS) languages, which includes Ada, Full BASIC, COBOL, FORTRAN, Pascal, and MUMPS.

Prior to the submission of this proposed FIPS to the Secretary of Commerce for review and approval, it is essential to assure that consideration is given to the needs and views of manufacturers, the public, and State and local governments. The purpose of this notice is to solicit such views.

This proposed FIPS contains two sections: (1) an announcement section which provides information concerning the applicability, implementation, and maintenance of the standard; and (2) a specifications section, ANSI X3.159-1989, which deals with the technical requirements of the standard. Only the announcement portion of the standard is provided in this notice. Interested parties may obtain a copy of the technical specifications from the American National Standards Institute (ANSI), 1430 Broadway, New York, NY 10018, telephone (212) 642-4900.

DATES: Comments on this proposed FIPS must be received on or before August 9, 1990.

ADDRESSES: Written comments concerning the adoption of C as a FIPS should be sent to: Director, National Computer Systems Laboratory, ATTN: Proposed FIPS for C, Technology Building, Room B-154, National Institute of Standards and Technology, Gaithersburg, MD 20899.

Written comments received in response to this notice will be made part of the public record and will be made available for inspection and copying in the Central Reference and Records Inspection Facility, room 6628, Herbert C. Hoover Building, 14th Street between Pennsylvania and Constitution Avenues NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Ms. Kathryn Miles, (301) 975-3156 or L. Arnold Johnson, (301) 975-3247, National Institute of Standards and Technology, Gaithersburg, MD 20899.

Dated: May 7, 1990.

John W. Lyons,

Director.

Federal Information Processing Standards Publication _____ (date) Announcing the Standard for C

Federal Information Processing Standards Publications (FIPS PUBS) are issued by the National Institute of Standards and Technology after approval by the Secretary of Commerce pursuant to Section 111(d) of the Federal Property and Administrative Services Act of 1949, as amended by the Computer Security Act of 1987, Public Law 100-235.

1. *Name of Standard.* C (FIPS PUB _____).

2. *Category of Standard.* Software Standard, Programming Language.

3. *Explanation.* This publication announces the adoption of American National Standard for C, ANSI X3.159-1989, as a Federal Information Processing Standard (FIPS). The American National Standard for C specifies the form and establishes the interpretation of programs written in the C programming language. The purpose of the standard is to promote portability of C programs for use on a variety of data processing systems. The standard is for use by implementors as the reference authority in developing compilers, interpreters, or other forms of high level language processors; and by other computer professionals who need to know the precise syntactic and semantic rules adopted by ANSI.

4. *Approving Authority.* Secretary of Commerce.

5. *Maintenance Agency.* Department of Commerce, National Institute of Standards and Technology (National Computer Systems Laboratory).

6. *Cross Index.* American National Standard X3.159-1989, Programming Language C.

7. *Related Documents.*[1]

a. Federal Information Resources Management Regulation 201-39, Acquisition of Federal Information Processing Resources by Contracting.

b. Federal Information Processing Standards (FIPS) Publication 29, Interpretation Procedures for Federal Information Processing Standard Programming Languages.

c. NBS Special Publication 500-117, Selection and Use of General-Purpose Programming Languages.

8. *Objectives.* Federal standards for high level programming languages permit Federal departments and agencies to exercise more effective control over the production, management, and use of the Government's information resources. The primary objectives of Federal programming language standards are:

—To encourage more effective utilization and management of programmers by ensuring that programming skills acquired on one job are transportable to other jobs, thereby reducing the cost of programmer re-training;

—To reduce the cost of program development by achieving the increased programmer productivity that is inherent in the use of high level programming languages;

—To reduce the overall software costs by making it easier and less expensive to maintain programs and to transfer programs among different computer systems, including replacement systems; and

—To protect the existing software assets of the Federal Government by ensuring to the maximal feasible extent that Federal programming

[1] Refers to most recent revision of FIPS PUBS.

language standards are technically sound and that subsequent revisions are compatible with the installed base.

Government-wide attainment of the above objectives depends upon the widespread availability and use of comprehensive and precise standard language specifications.

9. *Applicability.*

a. Federal standards for high level programming languages should be used for computer applications and programs that are either developed or acquired for government use. FIPS C is one of the high level programming language standards provided for use by all Federal departments and agencies. FIPS C is suitable for use in programming relating to operating system level software, and applications which require very low level programming constructs that are independent of the system or hardware architecture.

b. The use of FIPS high level programming languages is strongly recommended when one or more of the following situations exist:

—It is anticipated that the life of the program will be longer than the life of the presently utilized equipment.
—The application or program is under constant review for updating of the specifications, and changes may result frequently.
—The application is being designed and programmed centrally for a decentralized system that employs computers of different makes, models and configurations.
—The program will or might be run on equipment other than that for which the program is initially written.
—The program is to be understood and maintained by programmers other than the original ones.
—The advantages of improved program design, debugging, documentation and intelligibility can be obtained through the use of this high level language regardless of interchange potential.
—The program is or is likely to be used by organizations outside the Federal Government (i.e., State and local governments, and others).

c. Nonstandard language features should be used only when the needed operation or function cannot reasonably be implemented with the portable features alone. Although nonstandard language features can be very useful, it should be recognized that their use may make the interchange or programs and future conversion to a revised standard or replacement processor more difficult and costly.

d. It is recognized that programmatic requirements may be more economically and efficiently satisfied through the use of statistical and numerical software packages. The use of any facility should be considered in the context of system life, system cost, data integrity, and the potential for data sharing.

e. Programmatic requirements may be also more economically and efficiently satisfied by the use of automatic program generators. However, if the final output of a program generator is a C source program, then the resulting program should conform to the conditions and specifications of FIPS C.

10. *Specifications.* FIPS C specifications are the language specifications contained in American National Standard for C, ANSI X3.159–1989.

a. The ANSI X3.159–1989 document specifies the representation, syntax, and semantics for C programs; the representation of input and output data processed by C programs; and the restrictions and limitations imposed by a conforming implementation of C.

b. The standard does not specify the mechanisms by which C programs are transformed or invoked for use by a data processing system, the mechanisms by which input data are transformed for use by a C program or output data are transformed after being produced by a C program, the limits on program size or complexity, nor all minimal requirements of a data processing system that is capable of supporting a conforming implementation.

c. A facility must be available in the processor for the user to optionally specify monitoring of the source program at compile time. The monitoring may be specified for all obsolete language elements included in the processor, or all C language elements that are not in conformance with this standard, or both. The monitoring is an analysis of the syntax used in the source program against the syntax included in the FIPS C. Any syntax used in the source program that does not conform to that included in this standard will be diagnosed and identified to the user through a message on the source program listing. Any syntax for an obsolete language element included in the processor and used in the source program will also be diagnosed and identified through a message on the source program listing. The determination of the need to flag any given source program syntax in accordance with these requirements cannot be logically resolved until the syntactic correctness of the source program has been established. The message provided will identify:

—The statement or declaration that directly contains the nonconforming or obsolete syntax.
—The source program line and an indication of the beginning of the location within the line of the statement or declaration which contains the nonconforming or obsolete code.
—The syntax as "obsolete" if monitoring is selected for the obsolete category.
—The syntax as "nonconforming nonstandard" if the nonconforming syntax is a nonstandard extension included in the processor and monitoring for all C language elements that are not in conformance with this standard is selected.

11. *Implementation.* The implementation of this standard involves three areas of consideration: acquisition of C processors, interpretation of FIPS C, and validation of C processors.

11.1 *Acquisition of C Processors.* This publication is effective six months after date of publication of final document in the **Federal Register.** C processors acquired for Federal use after this date should implement FIPS C. Conformance to FIPS C should be considered whether C processors are developed internally, acquired as part of an ADP system procurement, acquired by separate procurement, used under an ADP leasing arrangement, or specified for use in contracts for programming services.

A transition period provides time for industry to produce C processors conforming to the standard. The transition period begins on the effective date and continues for one year thereafter. The provisions of FIPS PUB _____ apply to orders placed after the date of this publication; however, a C language processor not conforming to this standard may be acquired for interim use during the transition period.

11.2 *Interpretation of FIPS C.* NIST provides for the resolution of questions regarding FIPS C specifications and requirements, and issues official interpretation as needed. All questions about the interpretation of FIPS C should be addressed to: Director, National Computer Systems Laboratory, ATTN: FIPS C Interpretation, National Institute of Standards and Technology, Gaithersburg, MD 20899, Telephone: (301) 975–3156.

11.3 *Validation of C Processors.* The National Institute of Standards and Technology is investigating methods for providing validation services for FIPS C. For more information, contact: Director, National Computer Systems Laboratory,

ATTN: FIPS C Validation, National Institute of Standards and Technology, Gaithersburg, MD 20899, Telephone: (301) 975–3156.

12. *Waivers.* Under certain exceptional circumstances, the heads of Federal departments and agencies may approve waivers to Federal Information Processing Standards (FIPS). The head of such agency may redelegate such authority only to a senior official designated pursuant to section 3506(b) of Title 44, U.S. Code. Waivers shall be granted only when:

a. Compliance with a standard would adversely affect the accomplishment of the mission of an operator of a Federal computer system, or

b. Cause a major adverse financial impact on the operator which is not offset by Governmentwide savings.

Agency heads may act upon a written waiver request containing the infrmation detailed above. Agency heads may also act without a written waiver request when they determine that conditions for meeting the standard cannot be met. Agency heads may approve waivers only by a written decision which explains the basis on which the agency head made the required finding(s). A copy of each such decision, with procurement sensitive or classified portions clearly identified, shall be sent to: National Institute of Standards and Technology; ATTN: FIPS Waiver Decisions, Technology Building, Room B–154; Gaithersburg, MD 20899.

In addition, notice of each waiver granted and each delegation of authority to approve waivers shall be sent promptly to the Committee on Government Operations of the House of Representatives and the Committee on Governmental Affairs of the Senate and shall be published promptly in the **Federal Register.**

When the determination on a waiver applies to the procurement of equipment and/or services, a notice of the waiver determination must be published in the *Commerce Business Daily* as a part of the notice of solicitation for offers of an acquisition or, if the waiver determination is made after that notice is published, by amendment to such notice.

A copy of the waiver, any supporting documents, the document approving the waiver and any supporting and accompanying documents, with such deletions as the agency is authorized and decides to make under 5 U.S.C. Sec. 552(b), shall be part of the procurement documentation and retained by the agency.

13. *Where to Obtain Copies.* Copies of this publication are for sale by the National Technical Information Service, U.S. Department of Commerce, Springfield, VA 22161. (Sale of the included specifications document is by arrangement with the American National Standards Institute.) When ordering, refer to Federal Information Processing Standards Publication _____ (FIPS PUB _____), and title. Payment may be made by check, money order, or deposit account.

[FR Doc. 90–11037 Filed 5–10–90; 8:45 am]

BILLING CODE 3510–CN–M

National Oceanic and Atmospheric Administration

Marine Fisheries Advisory Committee; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), NOAA.

Time and date: Meeting will convene at 8:30 a.m., May 22, 1990, and adjourn at 4 p.m., May 23, 1990.

Place: The Key Bridge Marriott Hotel, 1401 Lee Highway, Arlington, VA.

Status: As required by section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. app. (1982), notice is hereby given of a meeting of the Marine Fisheries Advisory Committee (MAFAC). MAFAC was established by the Secretary of Commerce on February 17, 1971, to advise the Secretary on all living marine resource matters which are the responsibility of the Department of Commerce. This Committee ensures that the living marine resource policies and programs of this Nation are adequate to meet the needs of commercial and recreational fishermen, environmental, state, consumer, academic, and other national interest.

Matters to be considered: May 22, 1990, 8:30 a.m.–5:30 p.m., (1) Fisheries habitat issues, (2) marine mammal issues, (3) NOAA grants management, and (4) enforcement. May 23, 1990 8 a.m.–4 p.m., (1) Magnuson Act Reauthorization, and (2) Budget.

FOR FURTHER INFORMATION CONTACT: Ann Smith, Executive Secretary, Marine Fisheries Advisory Committee, Constituent Affairs Staff-Fisheries, Office of Legislative Affairs, NOAA, 1335 East-West Highway, Silver Spring, MD 20910. Telephone: (301) 427–2259.

Dated: May 7, 1990.

James E. Douglas, Jr.,

Deputy Assistant Administrator for Fisheries, NOAA.

[FR Doc. 90–10976 Filed 5–10–90; 8:45 am]

BILLING CODE 3510–00–M

COMMISSION ON MINORITY BUSINESS DEVELOPMENT

Cancellation of Meeting

[90–N–4]

AGENCY: Commission on Minority Business Development.

ACTION: Notice of Cancellation of Meeting.

SUMMARY: Notice is hereby given in accordance with the Federal Advisory Committee Act that the May 17, 1990 business meeting of the Commission on Minority Business Development which was announced in the May 1, 1990 **Federal Register** (Page 18150) is cancelled.

The public hearing to be conducted by the Commission on the following day, May 18, 1990, will proceed as announced, and will begin at 9 a.m. in Teleconference Room 2000 of the Bill J. Priest Institute of Economic Development, 1402 Corinth, Dallas, Texas.

FOR FURTHER INFORMATION CONTACT: Susan Gonzales or Anita Irick (202) 523–0030, Commission on Minority Business Development, 730 Jackson Place, NW., Washington, DC 20006.

Dated: May 9, 1990.

Andre M. Carrington,

Executive Director.

[FR Doc. 90–11204 Filed 5–10–90; 8:45 am]

BILLING CODE 6820–PB–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Rescission of Requests To Consult and Cancellation of Limit for Certain Cotton, Silk Blend and Other Vegetable Fiber Textile Products Produced or Manufactured in Thailand

May 7, 1990.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Announcing the rescission of requests to consult and issuing a directive to the Commissioner of Customs cancelling a limit.

EFFECTIVE DATE: May 14, 1990.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S Department of Commerce (202) 377–4212.

SUPPLEMENTARY INFORMATION:

Authority. Executive Order 11651 of March 3, 1972, as amended; section 204

of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The United States Government has decided to rescind the current calls on Categories 345 and 847 and to cancel the current limit for Category 847.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 54 FR 50797, published on December 11, 1989). Also see 54 FR 33050, published on August 11, 1989, and 55 FR 7525, published on March 2, 1990.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

May 7, 1990.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229

Dear Commissioner: Effective on May 14, 1990, this directive cancels the limit established in the directive of August 7, 1989 for silk blend and other vegetable fiber textile products in Category 847, produced or manufactured in Thailand and exported during the period May 26, 1989 through May 25, 1990.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 90-10984 Filed 5-10-90; 8:45 am]

BILLING CODE 3510-DR-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1990; Additions

AGENCY: Committee for Purchase From the Blind and Other Severely Handicapped.

ACTION: Additions to Procurement List.

SUMMARY: This action adds to Procurement List 1990 a commodity to be produced and services to be provided by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: June 11, 1990.

ADDRESSES: Committee for Purchase From the Blind and Other Severely Handicapped, Crystal Square 5, suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202-3509.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 557-1145.

SUPPLEMENTARY INFORMATION: On March 16 and 23, 1990, the Committee for Purchase From the Blind and Other Severely Handicapped published notices (55 FR 9940 and 10796) of proposed additions to Procurement List 1990, which was published on November 3, 1989 (54 FR 46540). After consideration of the material presented to it concerning capability of qualified workshops to produce the commodity and provide the services at a fair market price and impact of the addition on the current or most recent contractors, the Committee has determined that the commodity and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48c and 41 CFR 51-2.6.

I certify that the following actions will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

a. The actions will not result in any additional reporting, recordkeeping or other compliance requirements.

b. The actions will not have a serious economic impact on any contractors for the commodity and services listed.

c. The actions will result in authorizing small entities to produce the commodity and provide the services procured by the Government.

Accordingly, the following commodity and services are hereby added to Procurement List 1990:

Commodity, Hood, Radioactive Contaiminant Protective, 8415-00-NSH-0027. (Requirements of Tennessee Valley Authority only)
Services, Janitorial/Custodial, Charles E. Boston, U.S. Army Reserve Center, Houma, Louisiana
Janitorial/Custodial, A.J. Celebrezze Federal Building, 1240 East Ninth Street, Cleveland, Ohio
Janitorial/Custodial, Federal Center, Buildings 605, 606, 608, 614, 615, 608A, Walla Walla, Washington

Beverly L. Milkman,

Executive Director.

[FR Doc. 90-11048 Filed 5-10-90; 8:45 am]

BILLING CODE 6820-33-M

Procurement List 1990 Addition

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Addition to Procurement List.

SUMMARY: This action adds to Procurement List 1990 a commodity to be produced by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: June 11, 1990.

ADDRESSES: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202-3509.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 557-1145.

SUPPLEMENTARY INFORMATION: On January 2, 1990, the Committee for Purchase from the Blind and Other Severely Handicapped published notice (55 FR 54) of proposed additions to Procurement List 1990, which was published on November 3, 1989 (54 FR 46540).

Comments on this proposed addition were received from the President of a firm that had been the prior year contractor for this item. He indicated that the removal of this streamer from the competitive bidding system would result in the loss by his company of a major portion of its income, in the idling of expensive equipment used only for this type of item, and would force some of its employees, including several persons with disabilities, into unemployment.

The commenter's firm was not awarded the most recent contract for this item. Given the nature of the competitive procurement process, there is no assurance that the commenter's firm would receive future awards to produce the streamer if the Committee were to decide against adding it to the Procurement List. Under the circumstances, the Committee has determined that adding the item would not have a severe adverse impact on the commenter's firm.

After consideration of material presented to it concerning the capability of a qualified workshop to produce this commodity at a fair market price, the impact of the addition on the current contractor and the significant comments received, the Committee has determined that this commodity is suitable for procurement by the Federal Government under 41 U.S.C. 46-48c and 41 CFR 52-2.6. I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

a. The action will not result in any additional reporting, recordkeeping or other compliance requirements.

b. The action will not have a serious economic impact on any contractors for the commodity listed.

c. The action will result in authorizing small entities to produce the commodity procured by the Government.

Accordingly, the following commodity is hereby added to Procurement List 1990:

Streamer, Warning, Aircraft, 8345–00–673–9992.

Beverly L. Milkman,

Executive Director.

[FR Doc. 90–11049 Filed 5–10–90; 8:45 am]

BILLING CODE 6820–33–M

Procurement List 1990; Proposed Additions

AGENCY: Committee for Purchase From the Blind and Other Severely Handicapped.

ACTION: Proposed Additions to Procurement List.

SUMMARY: The Committee has received proposals to add to Procurement List 1990 commodities to be produced and a service to be provided by workshops for the blind or other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: June 11, 1990.

ADDRESSES: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202–3509.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 557–1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.6. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodities and service listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities and service to Procurement List 1990, which was published on November 3, 1989 (54 FR 46540):

Commodities, Comb, Hair, 8530–01–293–1384, 8530–01–293–1385.

Service, Janitorial/Custodial, Lemma-Whyman U.S. Army, Reserve Center, Charlotte Street, Canandaigua, New York.

Beverly L. Milkman,

Executive Director.

[FR Doc. 90–11050 Filed 5–10–90; 8:45 am]

BILLING CODE 6820–33–M

COMMODITY FUTURES TRADING COMMISSION

Membership of the Commission's Performance Review Board

AGENCY: Commodity Futures Trading Commission.

ACTION: Membership change of Performance Review Board.

SUMMARY: In accordance with the Office of Personnel Management guidance under the Civil Service Reform Act, notice is hereby given that the following employees will serve as members of the Commission's Performance Review Board.

Chairperson: Donald L. Tendick, Deputy Executive Director. Members: Andrea Corcoran, Director, Division of Trading and Markets; Dennis Klejna, Director, Division of Enforcement; Joanne Medero, General Counsel, John Mielke, Division of Economic Analysis.

DATES: This action was effective May 7, 1990.

ADDRESSES: Commodity Futures Trading Commission, Office of Personnel, Room 202, 2033 K Street NW., Washington, DC 20581.

FOR FURTHER INFORMATION CONTACT: Stacy L. Dean, Director, Office of Personnel, Commodity Futures Trading Commission, room 202, 2033 K Street NW., Washington, DC 20581, (202) 254–3275.

SUPPLEMENTARY INFORMATION: This action which changes the membership of the Board supersedes the previously published **Federal Register** notice in Vol. 54 page 29923, Monday, July 17, 1989.

Issued in Washington, DC on May 7, 1990.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 90–11054 Filed 5–10–90; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Intelligence Agency Advisory Board; Closed Meeting

AGENCY: Defense Intelligence Agency Advisory Board, DOD.

ACTION: Notice of closed meeting.

SUMMARY: Pursuant to the provision of subsection (d) of section 10 of Public Law 92–463, as amended by section 5 of Public Law 94–409, notice is hereby given that a closed meeting of a committee of the DIA Advisory Board has been scheduled as follows:

DATES: Wednesday and Thursday, June 27–28, 1990 (8:30 a.m. to 5 p.m.) each day.

ADDRESSES: Sandia National Laboratories, Albuquerque, NM.

FOR FURTHER INFORMATION CONTACT: Lieutenant Colonel John E. Hatlelid, USAF, Chief, DIA Advisory Board Office, Washington, DC 20340–1328 (202/373–4930).

SUPPLEMENTARY INFORMATION: The entire meeting is devoted to the discussion of classified information as defined in section 552b(c)(1), title 5 of the U.S. Code and therefore will be closed to the public. Subject matter will be used in a special study on Intelligence Support for Arms Control Monitoring.

Dated: May 7, 1990.

L. M. Bynum,

Alternate OSD Federal Register, Liaison Office, Department of Defense.

[FR Doc. 90–11058 Filed 5–10–90; 8:45 am]

BILLING CODE 3810–01–M

Meeting of Defense Science Board 1990 Summer Study on Tactical Forces/C³

ACTION: Change in location of advisory committee meeting notice.

SUMMARY: The meeting of the Defense Science Board 1990 Summer Study on Tactical Forces/C³ scheduled for 9 and 10 May, 1990, as published in the **Federal Register** (Vol. 55, No. 72, Page 13934, Friday, April 13, 1990, FR Doc. 90–8648) will be held at the Pentagon, room 3D1020.

Dated: May 7, 1990.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 90–11057 Filed 5–10–90; 8:45 am]

BILLING CODE 3810–01–M

Meeting of Defense Science Board Task Force on Scenarios and Intelligence

ACTION: Notice of advisory committee meetings

SUMMARY: The Defense Science Board Task Force on Scenarios and Intelligence will meet in closed session on 22 May and 11 June 1990 at the Pentagon, Washington, DC.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition on scientific and technical matters as they affect the perceived needs of the Department of

Defense. At these meetings the Task Force will receive classified briefings on DoD intelligence programs and activities and discuss intelligence estimates on political/geographical scenarios.

In accordance with section 10(d) of the Federal Advisory Committee Act, Public Law No. 92–463, as amended (5 U.S.C. App. II, (1982)), it has been determined that these DSB Task Force meetings, concern matters listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly these meetings will be closed to the public.

Dated: May 7, 1990.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 90–11062 Filed 5–10–90; 8:45 am]

BILLING CODE 3810–01–M

Defense Science Board Task Force on Technology and Technology Transfer Policy

ACTION: Notice of advisory committee meetings.

SUMMARY: The Defense Science Board Task Force on Technology & Technology Transfer Policy will meet in closed session on 1 June 1990 at The Analytical Sciences Corp., 1101 Wilson Blvd., Arlington, VA.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting the Task Force will receive classified briefings on DoD technology programs and activities and discuss intelligence estimates on various defense related technologies.

In accordance with section 10(d) of the Federal Advisory Committee Act, Public Law No. 92–463, as amended (5 U.S.C. App. II, (1982)), it has been determined that this DSB Task Force meeting, concerns matters listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly this meeting will be closed to the public.

Dated: May 7, 1990.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 90–11063 Filed 5–10–90; 8:45 am]

BILLING CODE 3810–01–M

Defense Science Board 1990 Summer Study on Tactical Forces/C^3

ACTION: Notice of advisory committee meeting.

SUMMARY: The Defense Science Board 1990 Summer Study on Tactical Forces/C^3 will meet in closed session on 6 and 7 June at The Pentagon, Washington, DC.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting the Task Force will identify areas of technological research and development which need special emphasis in the 1990's to ensure robust tactical forces and related C^3 structure.

In accordance with section 10(d) of the Federal Advisory Committee Act, Public Law 92–463, as amended (5 U.S.C. App. II, (1982)), it has been determined that this DSB Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly this meeting will be closed to the public.

Dated: May 7, 1990.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 90–11064 Filed 5–10–90; 8:45 am]

BILLING CODE 3810–01–M

Department of Defense Wage Committee; Closed Meetings

Pursuant to the provisions of section 10 of Public Law 92–463, the Federal Advisory Committee Act, notice is hereby given that a meeting of the Department of Defense Wage Committee will be held on Tuesday, June 5, 1990; Tuesday, June 12, 1990; Tuesday, June 19, 1990; and Tuesday, June 26, 1990 at 10 a.m. in room 1E801, The Pentagon, Washington, DC.

The Committee's primary responsibility is to consider and submit recommendations to the Assistant Secretary of Defense (Force Management and Personnel) concerning all matters involved in the development and authorization of wage schedules for federal prevailing rate employees pursuant to Public Law 92–392. At this meeting, the Committee will consider wage survey specifications, wage survey data, local wage survey committee reports and recommendations, and wage schedules derived therefrom.

Under the provisions of section 10(d) of Public Law 92–463, meetings may be closed to the public when they are "concerned with matters listed in 5 U.S.C. 552b." Two of the matters so listed are those "related solely to the internal personnel rules and practices of an agency," (5 U.S.C. 552b(c)(2)), and those involving "trade secrets and commercial or financial information obtained from a person and privileged or confidential" (5 U.S.C. 552b(c)(4)).

Accordingly, the Deputy Assistant Secretary of Defense (Civilian Personnel Policy) hereby determines that all portions of the meeting will be closed to the public because the matters considered are related to the internal rules and practices of the Department of Defense (5 U.S.C. 552b(c)(2)), and the detailed wage data considered from officials of private establishments with a guarantee that the data will be held in confidence (5 U.S.C. 552b(c)(4)).

However, members of the public who may wish to do so are invited to submit material in writing to the chairman concerning matters believed to be deserving of the Committee's attention.

Additional information concerning this meeting may be obtained by writing the Chairman, Department of Defense Wage Committee, room 3D264, The Pentagon, Washington, DC 20301.

Dated: May 7, 1990.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 90–11065 Filed 5–10–90; 8:45 am]

BILLING CODE 3810–01–M

DEPARTMENT OF ENERGY

Availability of Draft Environmental Impact Statement; Continued Operation of K-, L-, and P-Reactors at the Savannah River Site, Aiken, SC

AGENCY: U.S. Department of Energy.

ACTION: Notice of availability of draft Environmental Impact Statement (EIS) and notice to conduct public hearings on the draft EIS.

SUMMARY: The U.S. Department of Energy (DOE) announces the availability of a draft EIS, "Continued Operation of K-, L-, and P-Reactors at the Savannah River Site, Aiken, South Carolina" (DOE/EIS–0147D). The EIS addresses the environmental impacts of operating the K-, L-, and P-Reactors at the Savannah River Site, and discusses safety considerations. It also assesses the potential impacts of terminating operation of one, two, or all three of the reactors.

DOE invites public comments on the draft EIS, and will hold public hearings on the draft EIS. The Implementation Plan for this EIS is also available upon request.

DATES: The public comment period for the draft EIS ends on June 25, 1990. Written comments regarding the draft EIS should be postmarked by June 25,

1990, to ensure consideration in preparation of the final environmental impact statement; comments sent after that date will be considered to the extent practicable. Three public hearings will be held on the draft EIS: May 31, 1990, at Savannah, Georgia; June 5, 1990, in Columbia, South Carolina; and June 8, 1990 in Aiken, South Carolina. The locations for these meetings are given below.

ADDRESSES: Requests for copies of the draft EIS, written comments on the draft, requests for copies of the EIS Implementation Plan, and requests for further information regarding Savannah River reactor operation should be directed to: Mr. S.R. Wright, Director, Environmental Division, U.S. Department of Energy, Savannah River Operations Office, P.O. Box A, Aiken, South Carolina 29802, Attention: "Reactor Operation EIS", Telephone: (803) 725-3957.

For general information on the DOE's process for complying with the National Environmental Policy Act (NEPA), please contact: Ms. Carol Borgstrom, Director, Office of NEPA Project Assistance (EH-25), U.S. Department of Energy, 1000 Independence Avenue SW., Washington, D.C. 20585, Telephone: (202) 586-4600.

SUPPLEMENTARY INFORMATION:

Scope of Draft EIS

The proposed action assessed in the draft EIS is to continue to operate the K-, L-, and P-Reactors at the Savannah River Site, Aiken, South Carolina, to produce nuclear materials. This is DOE's preferred alternative, and represents no change from the current situation (*i.e.*, no action). The draft EIS considers the following alternatives to the proposed action: terminate operation of one or two reactors at the Savannah River Site in the immediate future and maintain in cold standby; terminate operation of K-, L-, and P-Reactors in the immediate future and maintain in cold standby; and other production options to K-, L-, and P-Reactor operation.

The purpose of the proposed actions is to continue to produce tritium and plutonium-238 to meet nuclear production requirements, and to provide the capability to produce other nuclear materials such as plutonium-239. Tritium is needed to build and maintain the nation's nuclear weapons stockpile and for other smaller applications. Plutonium-238 is used for space and military missions and medical applications. Plutonium-239 is needed for defense and nondefense uses. By law, DOE is charged with producing defense nuclear materials.

Public Scoping Process

On March 21, 1989, DOE published a Notice of Intent to prepare an EIS on the continued operation of K-, L-, and P-Reactors at the Savannah River Site (54 FR 11562). DOE developed the scope of the draft EIS following completion of a public scoping period, from March 21 to May 8, 1989. DOE held public scoping meetings in Savannah, Georgia, on April 17, 1989; in Columbia, South Carolina, on April 20, 1989; and in Aiken, South Carolina, on April 28, 1989. DOE received oral and written comments and suggestions from 315 individuals, organizations and government agencies regarding the scope of the EIS, and considered these in preparing this draft EIS.

DOE documented the results of the public scoping process in the Implementation Plan for this EIS. Copies of the EIS Implementation Plan may be obtained, upon request, from Mr. S. R. Wright, DOE, at the address given above, and will be available at the public hearings on the draft EIS.

Background Information

The Savannah River Site is a controlled access, major DOE installation established in the early 1950s. It produces tritium, plutonium, and other nuclear materials for the U.S. nuclear weapons program. Three Savannah River reactors (K, L, and P) are operational; at present, their safety and management systems are undergoing improvements, resulting in an extended outage from production of nuclear materials. These reactors are currently the only source for all the nuclear materials used for the nation's defense program, and some nuclear materials used for nondefense purposes.

DOE is preparing this EIS to further the purposes of NEPA and to provide the public with updated information on the environmental impacts of the continued operation of K-, L- and P-Reactors. This EIS will be completed prior to any decision on the startup of the three reactors following the current extended outage, and will enable DOE decisionmakers to have the additional benefit of a Record of Decision that includes insights gained from the public comment process.

Floodplain/Wetlands

DOE provides notice pursuant to 10 CFR 1022 that the continued operation of the K-, L- and P-Reactors may impact surface waters and adjacent floodplains at the Savannah River Site. The floodplains and wetlands potentially affected are described in Chapter 3 of the draft EIS, and the potential impacts of reactor operation on these areas are described in Chapter 4 of the draft EIS. Any comments regarding the effect of the proposed action on floodplains and wetlands may be submitted to DOE in accordance with the procedures described in this notice for submitting comments on the draft EIS.

Availability of Draft EIS

Copies of the draft EIS have been distributed to Federal, State, and local agencies, organizations, and individuals known to be interested in the Savannah River Site. Copies may be obtained by contacting Mr. S.R. Wright at the address given above.

Copies of the draft EIS, and documents referenced in the draft, are available for public inspection in the Library at the University of South Carolina's Aiken Campus, University Parkway, Aiken, South Carolina, and in DOE's Freedom of Information Reading Room, Room 1E-190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC. Copies of the draft EIS are also available for public inspection at many local and regional libraries in Georgia and South Carolina.

Invitation To Comment

Interested parties are invited to provide oral or written comments on the draft EIS. Written comments should be sent to Mr. S.R. Wright, DOE, attention "Reactor Operation EIS," at the address given above. To be considered in the final EIS, written comments should be postmarked by June 25, 1990; comments postmarked after that date will be considered to the extent practicable.

Public Hearings

Public hearings on the draft EIS have been scheduled as follows:

May 31, 1990:

DeSoto Hilton, Liberty and Bull Streets, Savannah, Georgia 31401. (912) 232-9000

June 5, 1990:

Park Inns International, 773 Andrews Road, Columbia, South Carolina 29210. (803) 772-7275

June 8, 1990:

Odell Weeks Activity Center, 1700 Whiskey Road, Aiken, South Carolina 29801. (803) 642-7630

Hearings will begin at 9:00 a.m. and 7:00 p.m. each day.

The public is invited to provide comments on the draft EIS to the DOE at the hearings. The purpose of the hearings is to receive substantive comments related to the draft EIS. The hearings will not be judicial or evidentiary-type hearings.

DOE has established basic rules and procedures for conducting the hearings. To ensure that all interested parties have the opportunity to present comments, five minutes will be allotted to each individual or representative of a group. Commenters are requested to provide DOE with written copies of their oral comments, if possible.

Clarifying questions regarding statements made at the hearings may be asked by personnel conducting the hearings, but there will be no cross-examination of persons presenting statements. Any participant who wishes to ask a question at the hearings may submit the question, in writing, to the Hearing Officer. Any further procedural rules needed for the proper conduct of the hearings will be announced at the start of the hearings.

A transcript of the hearings will be prepared, and DOE will make the entire record of the hearings, including the transcript, available for public inspection at the DOE reading rooms listed above.

DOE will consider all comments received during the public comment period (both written comments and oral comments presented at the public hearings) in preparing the final EIS.

Issued in Washington, DC on May 9th, 1990.

Raymond P. Berube,

Acting Assistant Secretary, Environment, Safety and Health.

[FR Doc. 90-11169 Filed 5-10-90; 8:45 am]

BILLING CODE 6450-01-M

Award of a Grant, Acceptance of Unsolicited Application

AGENCY: Department of Energy (DOE), Nevada Operations Office (NV).

ACTION: Notice of Acceptance of an Unsolicited Application.

SUMMARY: DOE/NV announces that pursuant to the DOE Financial Assistance Rules, 10 CFR 600.14, it intends to award a grant based on the acceptance of an unsolicited application to Fort Valley State College (FVSC), Fort Valley, GA, to complete the development and implementation of the Mathematics/Electrical Engineering Dual Degree Program with the University of Nevada, Las Vegas (UNLV).

FVSC is a Historically Black College or University (HBCU) and falls within the meaning and intent of Executive Order 12677 (dated April 28, 1989) pertaining to government assistance to HBCUs. The Executive Order directs federal agencies to increase the participation of HBCUs in federally-funded programs and to strengthen their capabilities to provide quality education. This grant represents an effort to strengthen the academic program at this college and allow FVSC to make a significant contribution in alleviating the underrepresentation of minorities and women in the nation's energy industry.

In 1983 FVSC implemented its Cooperative Developmental Energy Program (CDEP) to meet the following objectives:

a. To develop the academic capacity to transfer technology to minorities, women, and others in certain technical energy-related disciplines,

b. To facilitate the implementation of programs that would provide hands-on experience in the energy industry, and

c. To make a significant contribution in alleviating the acute underrepresentation of minorities and women holding professional level positions in the nation's energy industry.

To conduct the transfer of technology to students, FVSC has developed the concept of 3+2 dual degree programs with major universities that offer degrees in energy related disciplines. The FVSC/UNLV dual degree Mathematics/Electrical Engineering Program will consist of students entering FVSC the first three years and majoring in mathematics. During the final two years, students will attend UNLV and major in electrical engineering. Upon completion of the five-year program, each student will receive a B.S. degree in mathematics from FVSC and a B.S. degree in electrical engineering from UNLV.

Project scope: This application has been selected to assist the FVSC CDEP to accomplish the following:

a. Finalize FVSC/UNLV curriculum.

b. Develop a five-state recruitment program.

c. Establish a scholarship program for minorities and women financed by the private energy industry.

d. Implement dual degree program.

e. Increase the number of energy corporations and governmental agencies participating in internship/co-op programs.

f. Advertise dual degree program through appropriate means.

It is anticipated that expansion of the recruitment area to include the states of Alabama, Florida, Georgia, South Carolina, and Tennessee will contribute to the recruitment of more academically talented minorities and women. During the first year, the goal is to recruit 10 students from the state of Georgia and 5 students from each of the remaining states in the recruitment area. By the third year of the program, the goal will be to recruit 10 students from each of the 4 states and 15 from Georgia.

The project period for the grant is a three-year period expected to begin May 15, 1990. The total estimated cost of this award is $618,000 over the three-year period.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Energy, Nevada Operations Office, ATTN: Marcella Guerra, P.O. Box 98518, Las Vegas, NV 89193-8518.

Issued in Las Vegas, Nevada, on April 27, 1990.

Nick C. Aquilina,

Manager.

[FR Doc. 90-11069 Filed 5-10-90; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Project No. 10102-000 Colorado]

Franklin Springer; Availability of Environmental Assessment

May 4, 1990.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the application for minor license for the existing Springer Hydro Project located on McFadden and Morrison Creeks in Chaffee County, near Buena Vista, Colorado, and has prepared an Environmental Assessment (EA) for the proposed project. In the EA, the Commission's staff has analyzed the project and has concluded that approval of the proposed project, with appropriate mitigation measures, would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Public Reference Branch, room 1000, of the Commission's offices at 825 North Capitol Street NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 90-10995 Filed 5-10-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. G-4904-000, et al.]

Exxon Corporation, et al.; Applications for Termination or Amendment of Certificates [1]

May 4, 1990.

Take notice that each of the Applicants listed herein has filed an application pursuant to section 7 of the Natural Gas Act for authorization to terminate or amend certificates as described herein, all as more fully described in the respective applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before May 23, 1990, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Lois D. Cashell,

Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Description
G-4904-000, D, April 10, 1990.	Exxon Corporation, P.O. Box 2180, Houston, TX 77252-2180.	Williston Basin Interstate Pipeline Company, Worland Unit, Washakie, County, Wyoming.	Assigned Jan. 1, 1990, to Loflin Oil Company.
G-5214-005, D, April 16, 1990.	TEX/CON Oil & Gas Company, 9401 Southwest Freeway, Suite 1200 Houston, TX 77074.	Tennessee Gas Pipeline Company, Six Parish Area, Calcasieu, Acadia and Davis Parishes, Louisiana.	Assigned July 1, 1989, to Jerry J. Suire.
G-12710-001, D, April 20, 1990.	Texaco Inc., P.O. Box 52332, Houston, TX 77052-2332.	Colorado Interstate Gas Company, Adams Ranch Area, Meade County, Kansas.	Assigned Dec. 1, 1989, to Spess Oil Company, Inc.
CI61-1419-000, D, April 23, 1990.	Texaco Producing Inc., P.O. Box 52332, Houston, TX 77052-2332.	Texas Gas Transmission Corporation, Duson Field, Lafayette Parish, Louisiana.	Assigned Oct. 1, 1988, to Kaiser-Francis Oil Company.
CI61-1663-000, D, April 23, 1990.	Texaco Producing Inc	Texas Gas Transmission Corporation, Calhoun Field, Lincoln Parish, Louisiana.	Assigned Oct. 1, 1988, to Kaiser-Francis Oil Company.
CI66-172-005, D, March 29, 1990.	Oryx Energy Company, P.O. Box 2880, Dallas, TX 75221-2880.	Texas Gas Transmission Corporation, Maurice Field, Vermilion and Lafayette Parishes, Louisiana.	Assigned Sept. 1, 1984, to Lea Exploration, Inc.
CI71-262-001, D, April 11, 1990.	Oryx Energy Company	Tennessee Gas Pipeline Company, Glenmora Area Field, Rapides Parish, Louisiana.	Assigned June 1, 1983, to Elliott Oil.
CI90-61-000 (CI79-186), D, February 22, 1990.	Mesa Operating Limited Partnerships, Agent for Mesa Midcontinent, Limited Partnership, P.O. Box 2009, Amarillo, TX 79189-2009.	Arkla Energy Resources, a division of Arkla, Inc., Centrahoma Field, Coal County, Oklahoma.	Assigned Mar. 1, 1989, to Santa Fe-Andover Oil Company.
CI90-88-000 (CI85-78), D, April 9, 1990.	Texaco Producing Inc	Colorodo Interstate Gas Company, Greenwood Field, Morton County, Kansas.	Assigned May 1, 1989, to Hugoton Energy Corporation.
CI90-91-000 (CI77-458, D, April 19, 1990.	Stephens Production Company, P.O. Box 2407, Fort Smith, AR 72902.	Arkla Energy Resources, a division of Arkla, Inc., Deep Centrahoma Field, Coal County, Oklahoma.	Assigned Feb. 1, 1990, to Pan Western Energy Corporation.
CI90-95-000 (CI62-638), D, April 23, 1990.	Texaco Producing Inc	Texas Gas Transmission Corporation, Duson Field, Lafayette Parish, Louisiana.	Assigned Oct. 1, 1988, to Kaiser-Francis Oil Company.

Filing Code: A—Initial Service; B—Abandonment; C—Amendment to add acreage; D—Assignment of acreage; E—Succession; F—Partial Succession.

[FR Doc. 90-10996 Filed 5-10-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI81-495-003, et al.

Union Oil Co. of California, et al.; Applications for Certificates and Abandonment of Service [1]

May 4, 1990.

Take notice that each of the Applicants listed herein has filed an application pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before May 23, 1990, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Lois D. Cashell,

Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Description
CI81-495-003, C, April 9, 1990.	Union Oil Company of California, P.O. Box 7600, Los Angeles, CA 90051..	Southern California Gas Company, Santa Clara Field, Offshore California..	Application to add "test gas" pursuant to a letter agreement dated March 14, 1989.

Docket No. and date filed	Applicant	Purchaser and location	Description
CI90-83-000 (CI76-7), E, April 2, 1990.	OXY USA Inc., P.O. Box 300, Tulsa, OK 74102..	El Paso Natural Gas Company, North Burton Flats Sand Unit, Eddy County, New Mexico..	Acreage acquired 1-1-89 from BHP Petroleum Company, Inc.
CI90-84-000 E, April 2, 1990.	OXY USA Inc.	El Paso Natural Gas Company, North Burton Flats Sand Unit, Eddy County, New Mexico..	Acreage acquired 1-1-89 from Comanche Oil & Gas Company.
CI90-85-000 E, April 2, 1990.	OXY USA Inc.	El Paso Natural Gas Company, North Burton Flats Sand Unit, Eddy County, New Mexico..	Acreage acquired 1-1-89 from Edward R. Hudson, Jr.
CI90-86-000 (CI64-622), B, April 2, 1990.	Maxus Exploration Company, 717 N. Harwood Street, Suite 3100, Dallas, TX 75201-6505..	Northern Natural Gas Company, Division of Enron Corp., Dower NE Field, Beaver County, Oklahoma..	Certain acreage assigned 12-31-89 to Universal Resources Corporation. Remaining leases released.
CI90-89-000, E, April 16, 1990.	TEX/CON Oil & Gas Company, 9401 Southwest Freeway, Houston, TX 77074..	Northern Natural Gas Company, Division of Enron Corp., Mocane-Laverne Field, Beaver County, Oklahoma..	Acreage acquired 5-10-89 and 3-1-90 from VVWF Oil, Inc.
CI90-96-000 (CI74-421), B, April 23, 1990.	Chevron U.S.A. Inc., P.O. Box 3725, Houston, TX 77253-3725..	Transcontinental Gas Pipe Line Corporation, West Cameron Block 40, Offshore Louisiana..	Certain acreage assigned 1-1-89 to Union Texas Petroleum Corporation. Remaining leases expired.

Filing Code: A.—Initial Service; B—Abandonment; C—Amendment to add acreage; D—Assignment of acreage; E—Succession; F—Partial Succession.

[FR Doc. 90-10997 Filed 5-10-90; 8:45 am]
BILLING CODE 6717-01-M

[Docket Nos. CP90-1249-000, et al.]

Colorado Interstate Gas Company, et al.; Natural Gas Certificate Filings

May 4, 1990.

Take notice that the following filings have been made with the Commission:

1. Colorado Interstate Gas Company

[Docket No. CP90-1249-000]

Take notice that on April 25, 1990, Colorado Interstate Gas Company (CIG), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP90-1249-000 an application pursuant to section 7(c) of the Natural Gas Act (NGA) for a certificate of public convenience and necessity for authority to continue the operation of facilities previously constructed pursuant to section 311 of the Natural Gas Policy Act (NGPA), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

CIG states that in 1988 and 1989 it constructed approximately 53.5 miles of 20-inch pipeline in Lincoln and Sweetwater Counties, Wyoming, at a cost of $13,200,000. CIG avers that the facilities were constructed under section 311 of the NGPA and transportation service has been provided under section 311 also. CIG states that the capacity of the pipeline facility is approximately 147,000 Mcf per day with connections with Northwest Pipeline Corporation, Presidio Exploration, a producer, and Union Pacific Resources, a producer. CIG further states that this pipeline facility interconnects with CIG's transmission main line in southwest Wyoming. It is indicated that CIG currently has firm transportation agreements for service on this pipeline for approximately 121,800 Mcf per day.

CIG states that it seeks authority to operate this pipeline facility pursuant to section 7(c) of the NGA so that any shipper, without regard to section 311 of the NGPA may, when available, receive service. CIG further states that in addition, the pipeline facility would make inexpensive system supply available to CIG from the Moxa Arch area in southwest Wyoming. It is indicated that the major resale customers of CIG are already utilizing the facilities; therefore, both transportation only and resale customers are receiving the benefit of natural gas through these facilities.

Commen date: May 25, 1990, in accordance with Standard Paragraph F at the end of the notice.

2. El Paso Natural Gas Company

[Docket No. CP90-1269-000]

Take notice that on April 30, 1990, El Paso Natural Gas Company (El Paso), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP90-1269-000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon from interstate service by sale to Continental Natural Gas, Inc. (Continental) certain existing certified compressor, pipeline, metering, processing and gathering facilities, with appurtenances, hereinafter referred to as the "Beaver County System," located in Beaver County, Oklahoma, and the delivery of natural gas, on an exchange basis, to both Northern Natural Gas Company, Division of Enron Corp. (Northern) and Transwestern Pipeline Company (Transwestern), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that the Beaver County System includes the following facilities: (i) Four 1,160 horsepower (hp) field compressor units; (ii) one 440 hp recompressor unit; (iii) approximately 0.17 mile and .81 mile of 10¾" O.D. and 4½" O.D. pipeline; (iv) four exchange point meter ranging in size from 4½" O.D. to 10¾"; (v) one 40 MMcf per day (MMcfd) gasoline plant; (vi) one 40 MMcfd dehydration plant; (vii) approximately 87.85 miles of well-tie and gathering pipelines ranging in size from 2⅜" O.D. to 10¾" O.D.; and (viii) water supply, auxiliary power generation, camp housing facilities and appurtenances. El Paso states that only the facilities set forth under Items (i), (iii), (iv), (v), (vi) and (vii) above are subject to the abandonment herein. It is stated that the facilities under Items (ii) and (viii) are either nonjurisdictional or exempt under section 2.55 of the Commission's Statement of General Policy and Interpretations Under the Act, affect no jurisdictional services other than those described herein, and thus require no abandonment authorization.

The application states that the natural gas reserves and facilities involved herein represent an example of El Paso's successful endeavor in the later 1950's and continuing into the 1960's to increase its long-term overall gas reserves. In this regard, El Paso states that it was successful in contracting for additional natural gas reserves which were to be produced from the Highland, Ridgeway, Highland Chester and South Ridgeway Fields for the Anadarko Basin, all located approximately 15 miles southeast of the Town of Beaver, Beaver County, Oklahoma. It is represented that El Paso acquired approximately 25,000 Mcf per day (Mcfd) of gas from these fields that constituted long-term sources of clean, high pressure gas well gas. However, El Paso states that due to the location of

these gas supplies, it could not make the gas available to its customers without the construction of extensive and costly facilities. In view of this, El Paso states that it initiated discussions with Northern and Transwestern regarding the exchange of gas, thus permitting El Paso to obtain this gas for its system supply.

El Paso states that Northern already had extensive pipeline facilities located in close proximity to the Beaver County System, and Northern and El Paso were already parties to an existing exchange agreement (the 1963 Services Agreement) covering a total of 425,000 Mcfd. El Paso further states that in Docket No. G-17849 it was authorized to construct and operate the facilities comprising the Beaver County System and to deliver up to 50,000 Mcfd of gas on an exchange basis to Northern.

In addition to the 1963 Services Agreement, El Paso states that it entered into a gas exchange agreement with Northern dated July 19, 1960, as amended, under which the parties gathered and delivered wellhead natural gas to each other's gathering system facilities all located in Beaver County, Oklahoma. El Paso states that this agreement comprises Rate Schedule X-47 of its FERC Gas Tariff, Third Revised Volume No. 2 and Rate Schedule X-68 of Northern's FERC Gas Tariff, Original Volume No. 2, and was authorized in Docket Nos. CP75-457 and CP78-481.

It is also stated that El Paso discovered that it and Transwestern had available to each other sources of natural gas situated in common or closely proximate producing properties in Beaver and Ellis Counties, Oklahoma, and Ochiltree, Roberts, Hemphill and Lipscomb Counties, Texas. El Paso states that these properties were generally contiguous to its pipeline system or that of Transwestern and, therefore, it was operationally and economically advantageous to accomplish gathering gas by utilizing whichever system was most convenient to any given source of supply. Accordingly, El Paso states that it entered into an exchange agreement in 1961 (Exchange Agreement) with Transwestern which comprises Rate Schedule X-12 to El Paso's FERC Gas Tariff, Third Revised Volume No. 2.

As the fields supporting the Beaver County acreage began to mature, El Paso states that it was required to install pressure decline compression facilities. El Paso states that during 1965 and again in 1971 it installed two 1,068 hp turbine-driven centrifugal compressor units and necessary appurtenances.

El Paso submits that many of the producers with gas attached to the Beaver County System are in a transition period and no longer make their sales to El Paso, rather, sales are made directly to other parties. Currently, El Paso estimates that approximately 20 percent (2.6 MMcfd) of the natural gas available from the Beaver County System is dedicated to El Paso's system supply; the remaining 80 percent (10.5 MMcfd) of such gas is owned by others and either transported by El Paso to the tailgate of the Beaver Plant or exchanged at certain points of interconnection with either Northern or Transwestern for ultimate delivery to various points on El Paso's, Northern's or Transwestern's system. El Paso states that it has no company-owned production attached to the Beaver County System. Further, El Paso states that it has permanently released approximately 8.4 MMcfd of natural gas attached to the Beaver County System, the sales of El Paso having been abandoned by producers. El Paso states that it has released an additional 1.7 MMcfd of natural gas on a temporary basis.

El Paso avers that its market environment no longer justifies its continued ownership and operation of the Beaver County System. Moreover, it is stated that due to the present and projected low demand for El Paso's system supply gas, El Paso no longer requires the assured access to gas supply provided by the Beaver County System. Finally, El Paso submits that the remote location of the Beaver County System to its mainline system, as well as the increasing unit cost in the operation of the facilities no longer meets El Paso's goal of obtaining optimum operation and maintenance levels. Accordingly, El Paso states that it decided to sell the Beaver County System to Continental under the terms of an Agreement of Sale Concerning the Beaver Field Plant and Gathering System dated February 21, 1990. El Paso states that Continental has informed El Paso that it intends to operate the Beaver County System at an integrated non-jurisdictional gathering and processing system.

According to El Paso, Continental's operation of the Beaver County System will greatly benefit producers in the Beaver County production area and El Paso's transportation customers who acquire gas produced from Beaver County. In addition to Continental's services, El Paso states that producers in the Beaver County production area will have at least two interstate pipelines to choose from for gathering, processing (Northern only) and transmission services.

El Paso states that after abandonment of the Beaver County System, it will have minor purchase obligations for only 900 Mcfd of gas located in the Beaver County production area. Of this amount, El Paso avers that approximately 10 Mcfd is subject to the Natural Gas Act (NGA) and 890 Mcfd is subject to the Natural Gas Policy Act of 1978 (NGPA). It is stated that the related gas purchase contracts have various expiration dates extending through August 20, 1990. El Paso states that the sale of the Beaver County System will not cause the abandonment of any sales to it and will not prevent El Paso from honoring its remaining contractual obligations in the Beaver County production area. El Paso further states that Continental has informed it that Continental is willing to enter into contracts for gathering and processing services with all producers in the Beaver County production area.

As to the small amount of gas remaining under contract to El Paso, it is stated that El Paso intends to have such gas gathered by Continental and delivered to Northern at the existing point of interconnection with Northern; such gas will be transported and delivered to El Paso at a mutually agreeable existing point of interconnection between El Paso and Northern.

El Paso states that the expiration of the remaining gas purchase contracts subject to the NGA, together with the assignment of the gas purchase agreements subject to the NGPA completely eliminates El Paso's gas purchase obligations on the Beaver County System and therefore obviates the need for the continuation of the exchange agreements between El Paso and individually, Northern and Transwestern.

It is stated that the abandonment of the exchange agreements will involve the abandonment of points of interconnection and the deletion of those wells located in Beaver County, Oklahoma, from the gas exchange agreements between El Paso and Northern and El Paso and Transwestern comprising El Paso's Rate Schedules Z-1 and X-12, respectively. Finally, El Paso states that its proposal herein will also involve the complete abandonment of its Rate Schedule X-47.

El Paso submits that it will not abandon any gas supply as a result of the abandonment of the Beaver County System; therefore, its ability to render existing sales for resale to its customers will not be impaired. Furthermore, it is

stated that El Paso's open access obligations for the transportation service will not be affected by the proposed transfer of facilities. El Paso avers that the abandonment will require no changes in El Paso's FERC Gas Tariff other than the modification or cancellation of certain special rate schedules as described herein and no significant change in El Paso's rates will result therefrom. It is also stated that the sale will result in a book loss to El Paso and a decrease in rate base, and a savings in annual operation and maintenance costs will be realized. While these savings are minor, El Paso states that they will be reflected in its next general rate case proceeding.

It is further stated that there will be no adverse environmental effects from the abandonment; accordingly, El Paso believes that the proposal is not a major Federal action significantly affecting the quality of the human environment and thus is not subject to the requirements of the National Environmental Policy Act of 1969.

Comment date: May 25, 1990, in accordance with Standard Paragraph F at the end of this notice.

3. Felmont Oil & Gas Company

[Docket No. CI90-66-000]

Take notice that on December 28, 1989, as supplemented on March 9 and 14, 1990, Felmont Oil & Gas Company (Felmont), c/o Torch Oil & Gas Company, 1221 Lamar, suite 1600, Houston, Texas 77010, filed an application pursuant to section 7 of the Natural Gas Act and parts 154 and 157 of the Federal Energy Regulatory Commission's (Commission) regulations thereunder as partial successor-in-interest to Cabot Petroleum Corporation (Cabot) for certificates of public convenience and necessity to continue sales of natural gas previously made by Cabot under the certificates and rate schedules listed in the Appendix hereto, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

By assignments effective January 1, and March 1, 1989, Cabot Petroleum Corporation, Cabot Corporation and Cabot Oil & Gas Corporation transferred certain interests in the properties covered under the certificates listed in the appendix hereto to Felmont Oil Corporation and by assignments effective September 1, 1989, Felmont Oil Corporation transferred its interests in the subject properties to Felmont Oil & Gas Company.

Comment date: May 23, 1990, in accordance with Standard Paragraph J at the end of this notice.

Appendix

Cabot Petroleum Corporation FERC gas rate schedule No.	Certificate docket No.	Purchaser
43	CI67-1060	Transcontinental Gas Pipe Line Corporation.
47	CI69-898	Transcontinental Gas Pipe Line Corporation.
50	CI69-675	Transcontinental Gas Pipe Line Corporation.
51	CI69-919	Transcontinental Gas Pipe Line Corporation.
60	CI76-85	Northern Natural Gas Company.
65	CI78-395	Northern Natural Gas Company.
67	CI78-1049	Northern Natural Gas Company.
72	CI80-363	Northern Natural Gas Company.
73	CI80-380	ANR Pipeline Company.
74	CI81-99-000	Columbia Gas Transmission Corporation.
76	CI81-350-000	Columbia Gas Transmission Corporation.
77	CI82-416	Tennessee Gas Pipeline Company.
78	CI83-165	Transcontinental Gas Pipe Line Corporation.
102	CI71-346	ANR Pipeline Company.

4. Pacific Gas Transmission Company

[Docket No. CP90-1305-000]

Take notice that on May 2, 1990, Pacific Gas Transmission Company (PGT), 160 Spear Steet, San Francisco, California 94105-1570, filed in Docket No. CP90-1305-000 a request pursuant to § 157.205 of the Commission's Regulations to construct a sales tap at a point near Sandpoint, Idaho and reassign a portion of the volumes of gas currently authorized for delivery at existing sales taps at Sandpoint, Idaho and at Mica, Washington for delivery to such new tap and; reassign a portion of volumes authorized for delivery at an existing tap to a second existing tap at Athol, Idaho, under PGT's blanket certificate issued in Docket No. CP82-530-000, pursuant to section 7 of the Natural Gas Act, all as many fully set forth in the request on file with the Commission and open to public inspection.

PGT states that it currently delivers up to 151,731 Mcf per day of natural gas to Northwest Pipeline Company (Northwest) at various points in Idaho, Washington and Oregon. PGT requests authorization to construct a sales tap near Sandpoint, Idaho, to be known as the Schweitzer Meter Station, and to reassign to such tap 1,925 Mcf per day of the 10,207 Mcf per day of natural gas presently authorized for delivery to Northwest at existing sales taps located at points near Mica, Washington and Sandpoint, Idaho. PGT also requests authorization to reassign 50 Mcf per day from the existing sales tap at Mica, Washington to the existing sales tap at Athol, Idaho. PGT states that it requests authorization to construct the new sales tap and reassign a portion of the volumes from the existing delivery points to enable Northwest to provide enhanced service to the Washington Water Power Company, a local distribution company, which in turn would provide service to the town of Sandpoint, Idaho. PGT states that there would be no increase in the total quantity of gas which PGT is authorized to transport for Northwest.

Comment date: June 18, 1990, in accordance with Standard Paragraph G at the end of this notice.

5. El Paso Natural Gas Company

[Docket No. CP90-1281-000]

Take notice that on May 1, 1990, El Paso Natural Gas Company (El Paso), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP90-1281-000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon from interstate service by sale to Warren Petroleum Company, a Division of Chevron U.S.A. Inc. (Warren) certain certificated compression and pipeline facilities, with appurtenances, consisting of two 440 horsepower (hp) compressors at the Waddell Compressor Station and approximately 748 feet of 16" O.D. pipeline connected to the compressors, hereinafter referred to as the "Waddell Station" located in Crane County, Texas, and to abandon the service related thereto, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

El Paso states that as part of its ongoing gas acquisition efforts, it sought authorization in 1951 to construct a pipeline facility to connect Warren's Sandhills Processing Plant (Warren Sandhills Plant).[1] It is stated that in

[1] It is stated that Warren is successor-in-interest to Gulf Oil Corporation.

Docket No. G–1629, 10 FPC 644, El Paso was authorized to construct and operate approximately 3.9 miles of 10¾" pipeline (approximately 748 feet was later replaced with 16" O.D. pipeline) for such connection. El Paso submits that this gas supply line initially delivered approximately 7,000 Mcf per day (Mcfd) of natural gas to its 24" O.D. Upton County Line. Subsequent to the construction of the pipeline facility, El Paso states that an additional 24,000 Mcfd became available from the Warren Sandhills Plant. For receipt of these additional supplies, El Paso states that it constructed the Waddell Compressor Station in 1954 under authorization granted in Docket No. G–2371, 13 FPC 1008. El Paso states that the station was located on its pipeline immediately downstream of the Warren Sandhills Plant and consisted of one 440 hp compressor unit.

As more gas production became available in the area, El Paso states that it received authorization to install additional compression at the Waddell Compressor Station. In Docket No. G–10499, 16 FPC 1354, El Paso avers that it was authorized to construct and operate an additional 440 hp compressor unit and in Docket No. G–12580, 19 FPC 193, it was authorized to construct and operate a third 440 hp compressor unit and approximately 3.9 miles of 8⅝" O.D. loop pipeline at the station. Due to declining availability of natural gas in the area during the mid-1970's, El Paso states that it received authorization in Docket No. CP77–481, 4 FERC ¶61,169 (1978), to abandon in place the first compressor unit installed in 1954.

El Paso states that it is completing its transition from that of being primarily a gas merchant to that of being a major gas transporter. Similarly, El Paso states that many producers located behind the Warren Sandhills Plant no longer make sale to El Paso, but sell directly to others and as a part of their sale to others request transportation services from El Paso.

El Paso states that, currently, approximately 17 percent (5,141 Mcfd) of the residue gas available from the Waddell compressor Station is dedicated to its system supply; the remaining 83 percent (25,099 Mcfd) of such residue gas is owned by others and transported by El Paso to various delivery points on its system.

According to El Paso, its market environment no longer justifies its continued ownership of the Waddell Station; moreover, due to the present and projected low demand for its system supply gas, El Paso no longer requires the assured access to gas supply provided by the Waddell Station. Accordingly, El Paso states that it decided to sell the Waddell Station to Warren for a sales price of $35,000.

It is stated that Warren was advised El Paso that it intends to operate the Waddell Station as a nonjurisdictional production facility. El Paso avers that the sale of the Waddell Station will benefit producers behind the Warren Sandhills Plant and El Paso's customers who are end users of gas produced in that area by allowing all parties to take advantage of the cost savings.

El Paso states that the sale of the Waddell Station will not prevent it from honoring its remaining contractual obligations for gas located behind the Warren Sandhills Plant. El Paso further states that, after abandonment, Warren shall continue to gather gas for El Paso which is dedicated to El Paso's system supply, and shall delivery such gas to El Paso at the tailgate of the Waddell Compressor Station.

El Paso submits that because it will not abandon any gas supply as a result of the abandonment of the Waddell Station, its ability to render existing sales for resale service to its customers will not be impaired. El Paso avers that the abandonment will require no changes in El Paso's FERC Gas Tariff and no significant change in El Paso's rates will result therefrom. It is also stated that the sale will result in a *de minimis* book loss of $99 to El Paso.

It is further stated that there will be no adverse environmental effects from the abandonment; accordingly, El Paso believes that the proposal is not a major Federal action significantly affecting the quality of the human environment and thus is not subject to the requirements of the National Environmental Policy Act of 1969.

Comment date: May 25, 1990, in accordance with Standard Paragraph F at the end of this notice.

6. United Gas Pipe Line Company, Northern Natural Gas Company, Division of Enron Corp., Northern Natural Gas Company, Division of Enron Corp., Northern Natural Gas Company, Division of Enron Corp.

[Docket Nos. CP90–1293–000,[2] CP90–1294–000, CP90–1295–000, CP90–1296–000]

Take notice that on May 1, 1990, Applicants filed in the above referenced dockets, prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under their blanket certificates issued pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the prior notice requests which are on file with the Commission and open to public inspection and in the attached appendix.

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the docket numbers and initiation dates of the 120-day transactions under § 284.223 of the Commission's Regulations has been provided by the Applicants and is included in the attached appendix.

Applicants state that each of the proposed services would be provided under an executed transportation agreement, and that the Applicants would charge rates and abide by the terms and conditions of the referenced transportation rate schedule(s).

Comment date: June 18, 1990, in accordance with Standard Paragraph G at the end of this notice.

7. Panhandle Eastern Pipe Line Company

[Docket No. CP90–1291–000]

Take notice that on May 1, 1990, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77251–1642, filed in Docket No. CP90–1291–000 a request pursuant to §§ 157.205, 157.211 and 284.223 of the Commission's Regulations for authorization to transport natural gas for Amarillo Natural Gas Utility, Inc. (ANG Utility), a marketer of natural gas, under Panhandle's blanket certificate issued in Docket No. CP86–585–000 pursuant to section 7 of the Natural Gas Act, and to construct and operate a new delivery point under Panhandle's blanket certificate issued in Docket No. CP83–83–000, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Panhandle proposes to transport, on an interruptible basis, up to 160 dt equivalent of natural gas on a peak day, 130 dt equivalent on an average day and 47,450 dt equivalent on an annual basis for ANG Utility. Panhandle states that it would perform the transportation service for ANG Utility under Panhandle's Rate Schedule PT. Panhandle indicates that it would receive the gas at designated points on its system in Colorado, Illinois, Kansas, Michigan, Ohio, Oklahoma and Texas and would deliver equivalent volumes of gas, less fuel used and unaccounted for line loss, to ANG Utility at an interconnection in Texas County, Oklahoma.

[2] These prior notice requests are not consolidated.

In order to facilitate the transportation service, Panhandle proposes to construct and operate a two-inch hot tap on its 16-inch transmission line No. 16-02-002-2-16" in Texas County, Oklahoma. It is estimated that the construction cost will be $8,600. It is proposed that the tap will be installed and the transportation service will commence upon the completion of the 45-day notice period.

Comment date: June 18, 1990, in accordance with Standard Paragraph G at the end of this notice.

8. Michigan Consolidated Gas Company—Interstate Storage Division

[Docket No. CP90-1262-000]

Take notice that on April 30, 1990, Michigan Consolidated Gas Company—Interstate Storage Division (ISD), 500 Griswold Street, Detroit, Michigan 48226, filed in Docket No. CP90-1262-000 a request pursuant to §§ 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to add a new delivery point for an existing customer, Michigan Consolidated Gas Company—Utility Division (Utility Division) under the blanket certificate issued in Docket No. CP82-532-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

It is stated that the location of the delivery point is a new interconnect with ISD's 30 inch Kalkasha-Woolfork Pipeline located in Osceola County, Michigan. There is currently no gas delivered at the proposed point. The proposed interconnection will have a maximum capacity of 73.0 MMcfd from ISD's 30 inch Kalkasha-Woolfork pipeline. The gas received by Utility Division at the new delivery point will be used for system supply. This proposal will not change the peak and annual deliveries.

The additional volumes requested herein are within existing certificated entitlements.

Comment date: June 18, 1990, in accordance with Standard Paragraph G at the end of this notice.

9. United Gas Pipe Line Company

[Docket No. CP90-1254-000]

Take notice that on April 26, 1990, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251-1478, filed in Docket No. CP90-1254-000 an application pursuant to sections 7(b) and 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of 14.52 miles of 24-inch diameter pipeline, and for permission and approval to abandon 22.10 miles of 16-, 18- and 20-inch diameter pipeline, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

United states that it is engaged in a multi-phase project to renovate and modernize operation of its transmission system; and that phases of this project involve the replacement of the 18-inch Baton Rouge-New Orleans Main Line. United indicates in the instant application that it proposes to abandon by removal 0.15 miles of 20-inch diameter pipeline, 14.77 miles of 18-inch diameter pipeline and 7.18 miles of 16-inch diameter pipeline between Mile Pole 57 and 73 located in St. Charles and St. John The Baptist Parishes, Louisiana, and to replace the abandoned facilities with 14.52 miles of 24-inch diameter pipeline. United states that the estimated replacement cost of the proposed facilities is $13,904,900. United further states it will finance this phase of the project with funds on hand.

Comment date: May 25, 1990, in accordance with Standard Paragraph F at the end of this notice.

10. Mississippi River Transmission Corporation

[Docket Nos. CP90-1298-000, [3] CP90-1299-000, CP90-1300-000, CP90-1301-000, CP90-1302-000]

Take notice that on May 1, 1990, Mississippi River Transmission Corporation (MRT), 9900 Clayton Road, St. Louis, Missouri 63124 filed in the above referenced dockets, prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under MRT's blanket certificate issued in Docket No. CP89-1121-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the prior notice requests which are on file with the Commission and open to public inspection and in the attached appendix.

Information applicable to each transaction including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day, and annual volumes, and the docket numbers and initiation dates of the 120-day transactions under § 284.223 of the Commission's Regulations has been provided by MRT and is included in the attached appendix.

[3] These prior notice requests are not consolidated.

MRT also states that it would provide the service for each shipper under an executed transportation agreement, and that MRT would charge rates and abide by the terms conditions of the referenced transportation rate schedules.

Comment date: June 18, 1990, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is

filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Standard Paragraph

J. Any person desiring to be heard or make any protest with reference to said filings should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, .214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 90-10998 Filed 5-10-90; 8:45 am]

BILLING CODE 6717-01-M

Federal Energy Regulatory Commission

[Docket No. TM90-6-26-000]

Natural Gas Pipeline Company of America; Changes in FERC Gas Tariff

May 4, 1990.

Take notice that on April 30, 1990, Natural Gas Pipeline Company of America (Natural) submitted for filing six (6) copies each of the Fourth Revised Sheet Nos. 171 and 172 and Second Revised Sheet Nos. 173 and 174 to be a part of its FERC Gas Tariff, Third Revised Volume No. 1. The proposed effective date of Sheet Nos. 171 and 172 is May 1, 1990, and the proposed effective date of Sheet Nos. 173 and 174 is June 1, 1990.

The purposes of the filing are: (1) To track Colorado Interstate Gas Company's (CIG) revised calculation of accrued interest back to April 1989 for its recovery of take-or-pay buyout, buydown or other contract reformation costs (Transition Costs) allocated to Natural at Docket Nos. RP89-98 and RP89-133; (2) to track CIG's revised calculation of accrued interest back to June 1989 for its recovery of Transition Costs allocated to CIG by Northwest Pipeline Corporation (Northwest) at Docket Nos. RP89-137, RP89-219 and RP90-50 and passed on to Natural at Docket Nos. RP89-178, TM90-4-32 and TM90-5-32, respectively; (3) to revise Natural's accrued interest calculations from the inception of both recovery periods through March 1990 to reflect CIG's revised assignment of Natural's total monthly payments between its CIG and Northwest amortizations; (4) to reflect accrued interest for the months of April and May 1990 for Natural's amortization of the CIG and Northwest Transition Costs in accordance with the semi-annual interest adjustment provision of its FERC Gas Tariff; and (5) to reflect the April 30, 1990 termination of Natural's twelve-month amortization of CIG Transition Costs to its jurisdictional sales customers.

Natural seeks any waivers of the Commission's Regulations as are necessary to permit the tendered tariff sheets to take effect May 1, 1990 and June 1, 1990, as requested.

Copies of this filing have been mailed to Natural's jurisdictional sales customers, interested state regulatory agencies, and all parties set out on the official service list in Docket Nos. RP89-131-000, *et al.* and RP89-188-000, *et al.*

Any person desiring to be heard or to protest the subject filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with 18 CFR §§ 382.214 and 385.211. All such motions or protest must be filed on or before May 11, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-10999 Filed 5-10-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM90-7-26-000]

Natural Gas Pipeline Co. of America; Changes in FERC Gas Tariff

May 4, 1990.

Take notice that on April 30, 1990, Natural Gas Pipeline Company of America (Natural) submitted for filing six (6) copies each of the Ninth Revised Sheet Nos. 169 and 170 to be a part of its FERC Gas Tariff, Third Revised Volume No. 1. The proposed effective date of the revised tariff sheets is June 1, 1990. The purpose of the filing is to reflect accrued interest for the months of December 1989 through May 1990 related to Natural's recovery of take-or-pay buyout, buydown and other contract reformation costs (Transition Costs) under an Order No. 500 mechanism.

Natural seeks any waivers of the Commission's Regulations as are necessary to permit the tendered tariff sheets to take effect June 1, 1990.

Copies of this filing have been mailed to Natural's jurisdictional sales customers, interested state regulatory agencies, and all parties set out on the official service list in Docket Nos. RP88-94-000 *et al.* and RP90-24-000.

Any person desiring to be heard or to protest the subject filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street N.E., Washington, DC 20426, in accordance with 18 CFR 382.214 and 385.211. All such motions or protest must be filed on or before May 11, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-11000 Filed 5-10-89; 8:45 am]

BILLING CODE 6717-01-M

Office of Fossil Energy

[FE Docket No. 90-09-NG]

New England Power Co.; Application To Import Natural Gas From Canada; Correction

AGENCY: Department of Energy, Office of Fossil Energy.

ACTION: Correction.

In notice document 90-9132 beginning on page 14999 in the issue of Friday, April 20, 1990, make the following corrections:

1. On page 14999, the docket number should have appeared as set forth above.

2. On page 15000, in the first column, in the second line of the last paragraph "January 1, 1990", should read "January 1, 1989".

Issued in Washington, D.C., May 9, 1990.

Clifford P. Tomaszewski,

Acting Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 90-11139 Filed 5-10-90; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 3776-2]

Clean Water Act; Availability of Final Listing Decisions, Individual Control Strategies, and Responses to Comments and Petitions

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability of final listing decisions, individual control strategies (ICS's), and responses to comments and petitions under section 304(1) of the Clean Water Act.

SUMMARY: Notice is hereby given of the availability of the United States Environmental Protection Agency's [U.S. EPA] final listing decisions, including approval and disapprovals of the lists of waters, point sources, pollutants for which the waters and point sources were listed, and individual control strategies (ICS's) submitted by the States of Delaware, Maryland, West Virginia and the District of Columbia, and U.S. EPA's responses to comments and petitions under section 304(1) of the Clean Water Act as amended by the Water Quality Act of 1987. The U.S. EPA Region III Regional Administrator made the above final decisions on May 1, 1990, and is hereby giving the required notice of the Availability of these decisions and the administrative record

DATES: Petitions to add waters and comments on all aspects of the Agency's decisions with regard to the lists of waters, point sources, pollutants and individual control strategies were to be submitted to the U.S. EPA by October 4, 1989. Comments and petitions received after this date were considered as Agency time and resources permitted. The Regional Administrator is to respond to all comments and petitions on or before June 4, 1990.

ADDRESSES: The U.S. EPA's responses to comments and petitions, and final decisions on approving and disapproving the lists of waters, point sources, pollutants for which the waters and point sources were listed, and ICS's are available for public review. To obtain a copy of these decisions contact: Mr. Thomas Henry (3WM53), Permits Enforcement Branch, U.S. EPA Region III. 841 Chestnut Building, Philadelphia, PA 19107.

The administrative record containing the U.S. EPA's documentation supporting its final decision is on file and may be inspected at the U.S. EPA Region III office between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday except holidays. To make arrangements to examine the administrative record contact the person named above.

FOR FURTHER INFORMATION CONTACT: Thomas Henry (3WM53), Permits Enforcement Branch, U.S. EPA, Region III, 841 Chestnut Building, Philadelphia, PA 19107, telephone (215) 597-8243, [FTS] 597-8243.

SUPPLEMENTARY INFORMATION: Section 304(1) of the Clean Water Act (CWA) as amended by the Water Quality Act of 1987 requires every State to develop lists of impaired waters, identify certain point sources and amounts of pollutants causing toxic impacts, and to develop individual control strategies (ICS's) to achieve water quality standards for toxic pollutants, including those pollutants for which the point sources were listed, by no later than June, 1992. Where the State fails to submit ICS's or U.S. EPA disapproves the ICS's, then U.S. EPA in cooperation with the State is to develop ICS's by June, 1990 to achieve water quality standards by no later than June, 1993. ICS's will take the form of National Pollutant Discharge Elimination System (NPDES) permits for the individual point sources.

The deadline for each State to submit this information to the U.S. EPA was February 4, 1989. The U.S. EPA proposed approvals or disapprovals of the States' lists and ICS's on June 2, 1989. The CWA further requires the U.S. EPA to accept petitions to add waters to the lists and take public comment for a 120 day period on the proposed approvals and disapprovals of lists of waters, point sources, pollutants for which the waters and point sources were listed and individual control strategies submitted by the States. The public comment period closed on October 4, 1989. Any comment or petition received after that date and prior to this decision was considered as the Agency's time and resources permitted.

Following the close of the comment period the Regional Administrator considered the comments and petitions and has issued a response to those comments and petitions regarding the States of Delaware, Maryland, West Virginia and the District of Columbia. These responses are available for public inspection at the above address. The U.S. EPA is required to finalize all decision on or before June 4, 1990.

This action gives notice of the final decision of the Agency with respect to the listings, including approvals and disapprovals of the States of Delaware, Maryland, West Virginia and the District of Columbia and the respective lists of waters, point sources pollutants for which the waters and point sources were listed, and individual control strategies. This decision was based on the consideration of comments and petitions received and on a determination of whether the approval or disapproval of the various lists meets the requirements of 304(1) of the Clean Water Act and 40 CFR parts 122, 123 and 130.

EPA plans to set forth its position on the judicial reviewability of the final listing decisions in a forthcoming **Federal Register** Notice prior to September 10, 1990.

Dated: May 1, 1990.

Edwin B. Erickson,

Regional Administrator, EPA Region III.

[FR Doc. 90-10964 Filed 5-10-90; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-3776-6]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared April 23, 1990 through April 27, 1990 pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 382-5076.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 13, 1990 (55 FR 13949).

Draft EISs

ERP No. D-AFS-L65132-ID, Rating LO, Warm Lake Complex Fire Recovery Project, July Thru August 1989 Warm Lake Complex Fires, Implementation, Boise National Forest, Cascade Ranger District, Valley County, ID.

Summary

EPA has no objections to the preferred alternative provided that best management practices, water quality monitoring (before, during and after), and a feedback mechanism as specified in the EIS are employed.

ERP No. D-AFS-L65133-ID, Rating LO, Lowman—North Fire Recovery Project, July thru August 1989 Lowman Complex Fire, Implementation, Boise National Forest, Lowman Ranger District, Boise County, ID.

Summary

EPA has no objections to the preferred alternative.

ERP No. DS-FHW-E40729-KY, Rating EC2, US 27 and US 68 Improvement, Lexington on Rogers Road to Parkway Drive in Paris, Possible 404 Permit and Bridge Permit, Funding, Fayette and Bourbon Counties, KY.

Summary

EPA expressed concern about potential groundwater impacts. This document did not evaluate the karst geology in enough detail in assess possible groundwater contamination from accidental spills and non-point source pollution from highway run-off.

ERP No. D-FHW-J40118-UT, Rating EC2, UT-91 Highway Improvement, Brigham City to Wellsville, Funding and Section 404 Permit, Box Elder and Cache Counties, UT.

Summary

EPA expressed concern about the proposed wetland mitigation plan and believes that more quality data is needed.

ERP No. D1-NAS-E12002-00, Rating EC2, Ulysses Mission Project, Helisphere Exploration Program, Preparation for Launch and Operation, Updated Information, Brevard, Volusia, Seminole, Lake, Orange, and Osceola Counties, FL.

Summary

EPA's remaining environmental interest in this and similar launch actions centers on the short and long-term air quality impacts associated with the combustion products of the solid rocket motor. There is a growing awareness among elements of the scientific community that these products could have greater effects that were initially supposed in previous evaluations.

ERP No. D-TVA-E32072-00, Rating EC1, Tennessee River Reservoir System Improvement, Operation, Funding, TN, VA, GA, KY, NC, AL and MS.

Summary

EPA supports the proposal to improve the water quality of the discharge from TVA's hydropower output. EPA also supports the TVA proposals to provide increased minimum flows to the tailwater reaches downstream from reservoirs. EPA has concerns over the TVA proposal to delay full implementation of the dissolved oxygen improvement program until state non-point source programs are in place. The methods and rationale used to provide minimum flows should be explained in the final EIS.

Final EISs

ERP No. FS-AFS-E65032-00, Cherokee National Forest Land and Resource Management Plan, Alternative 7 Modification, Implementation, Carter, Cooke, Greene, Johnson, McMinn, Monroe, Polik, Sullivan, Unicoi and Washington Counties, TN; Washington County, VA and Ashe County, NC.

Summary

EPA has no comments concerning this document based on the U.S. Forest Service's commitment to utilize best management practices. However, the issues raised in EPA's original comment letter on the Forest management plan remain a concern.

ERP No. F-DOE-J220003-CO, Old and New Rifle Uranium Mill Sites Remedial Actions, Contaminated Material Cleanup, Garfield County, CO.

Summary

Review of the final EIS was deemed necessary. No formal letter was sent to the agency.

Dated: May 8, 1990.

William Dickerson,

Deputy Director, Office of Federal Activities.

[FR Doc. 90-11078 Filed 5-10-90; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-3776-5]

Environmental Impact Statements: Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 382-5073 or (202) 382-5075.

Availability of Environmental Impact Statements Filed April 30, 1990 through May 4, 1990 Pursuant to 40 CFR 1506.9.

EIS No. 900134, DSuppl, FHW, ID, Banks-Lowman Highway/ID Forest Highway—24 Improvements, Sweet Creek to Little Gallagher Creek, Funding, Boise County, ID, Due: June 25, 1990, Contact: Allan J. Stockman (206) 696-7751.

EIS No. 900135, Draft, HUD, TX, Harris Branch Development Project, Mortgage Insurance, Section 404 Permit, City of Austin, Travis County, TX, Due: June 25, 1990, Contact: I.J. Ramsbottom (817) 885-5482.

EIS No. 900136, Draft, AFS, CO, Willow Mountain Area, Multiple-Use Management Projects, Implementation, Special Use Permit, Rio Grande National Forest, CO, Due: June 25, 1990, Contact: James B. Webb (719) 852-5941.

EIS No. 900137, Final, NOA, HI, FL, Swim-With-The-Dolphin Programs, Use of Marine Mammals, Implementation, Due: June 11, 1990, Contact: Dr. Nancy Foster (301) 427-2332.

EIS No. 900138, Draft, BLM, NM, Fence Lake Federal Coal Project, Lease Approval, Catron and Cibola Counties, NM, Due: July 2, 1990, Contact: Charles Hodgin (505) 525-8228.

EIS No. 900139, Draft, DOE, SC, Savannah River Site, Continued Operation of K-, L-, and P-Reactors, Implementation, Aiken County, SC, Due: June 25, 1990, Contact: Carol Borgstrom (202) 586-4600.

EIS No. 900140, Final, UAF, CA, George Air Force Base Closure, 37th Tactical Fighter Wing, Relocation to Mountain Home AFB, Idaho and Davis Monthan AFB in Arizona, Implementation, San Bernardino County, CA, Due: June 11, 1990, Contact: Capt. Wilford Cassidy (804) 764-4430.

Dated: May 8, 1990.

William D. Dickerson,

Deputy Director, Office of Federal Activities.

[FR Doc. 90-11077 Filed 5-10-90; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3764-7]

Hearing and Data Availability Regarding Proposal To Grant a Conditional Variance to the Department of Energy's Waste Isolation Pilot Plant (WIPP) From the Land Disposal Restrictions

AGENCY: Environmental Protection Agency.

ACTION: Notice of public hearing; notice of data availability.

SUMMARY: On April 6, 1990, the Agency proposed to grant a conditional no-migration variance to the U.S. Department of Energy (DOE) for the Waste Isolation Pilot Plant (WIPP) located near Carlsbad, New Mexico. The purpose of this notice is to announce: (1) The scheduling of an

additional public hearing on EPA's proposed variance, to be held in Santa Fe, New Mexico, on May 29 and 30, 1990, and (2) the availability of two additional documents; WIPP Test Phase Plan: Performance Assessment, DOE/WIPP 89-011, Revision O, April 1990; and Waste Retrieval Plan, DOE/WIPP 90-022, May 1990. These documents have been placed in the record and are available to the public for review.

DATES: An additional public hearing has been scheduled for May 29 and 30, 1990, in Santa Fe, New Mexico, at the Sweeney Convention Center, 201 West Marcy St., beginning at 9:00 a.m. on both days. Other hearings are scheduled for Carlsbad, New Mexico, on May 22, at the Park Inn International, 3706 National Parks Highway, beginning at 9:00 a.m., and for May 23 to 26, 1990, in Albuquerque,New Mexico, at the Albuquerque Convention Center, 401 Second St. NW. The hearing on May 23 in Albuquerque will begin at 1 p.m.; the hearing on subsequent days will begin at 9:00 a.m. Persons interested in testifying at the Carlsbad, Albuquerque, or Santa Fe hearings should register by telephoning 1-800-955-9477. Requests to testify should be received by May 16, 1990. (EPA had previously required persons wishing to testify to register by May 11. However, because of the additional hearing in Santa Fe, EPA is extending the registration deadline to May 16). Comments on EPA's proposed no-migration variance for the WIPP should be submitted on or before June 5, 1990.

ADDRESSES: Copies of the documents on retrievability and the performance assessment are available to the public at the following address: U.S. Environmental Protection Agency, RCRA Docket (OS-305), 401 M Street SW., Washington, DC 20460. Inquiries should reference the regulatory docket reference number F-90-NMWP-FFFFF. The docket is open from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding Federal holidays. Docket material may be reviewed by appointment by calling (202) 475-9327. Copies of docket materials may be made at no cost, with a maximum of 100 pages of material from any one regulatory docket. Additional copies are $0.15 per page.

Copies of these documents are also available to the public in Albuquerque, New Mexico, at the National Atomic Museum Library, Building 20358, Wyoming Boulevard, Kirtland Air Force Base, from 9 a.m. to 5 p.m., Monday through Friday; and in Carlsbad, New Mexico at the WIPP Office of Information Center, 101 W. Greene Street, from 7:30 a.m. to 4:30 p.m.

Written comments on EPA's proposed no-migration variance for the WIPP should be addressed to the docket clerk at the following address: U.S. Environmental Protection Agency, RCRA Docket (OS-305), 401 M St., SW., Washington, DC 20460. One original and two copies should be sent and identified by regulatory docket reference number F-90-NMWP-FFFFF.

FOR FURTHER INFORMATION CONTACT: General questions about the regulatory requirements under RCRA should be directed to the RCRA/Superfund Hotline, Office of Solid Waste (OS-305), U.S. Environmental Protection Agency, Washington, DC 20460, (800) 424-9346 (toll free) or (202) 382-3000 (local).

Specific questions about the documents being noticed today should be directed to Matthew Hale, Office of Solid Waste (OS-341), U.S. Environmental Protection Agency, 401 M Street SW., Washington DC 20460, at (202) 382-4746.

SUPPLEMENTARY INFORMATION: On April 6, 1990, the Environmental Protection Agency proposed to grant a conditional no-migration variance to DOE. This variance would allow DOE to place hazardous waste subject to the land disposal restrictions of the Resource Conservation and Recovery Act (RCRA) in DOE's Waste Isolation Pilot Plant for the limited purposes of testing and experimentation. DOE submitted a petition to EPA under 40 CFR 268.6 requesting a no-migration variance from the RCRA land disposal treatment standards on the grounds that treatment was unnecessary to protect human health and the environment because there would be no migration of hazardous constituents from the disposal unit.

EPA planned on two public hearings on its proposed variance, one in Carlsbad and the other in Albuquerque, New Mexico. In response to several requests, EPA has scheduled a third hearing, for Santa Fe, New Mexico. The hearing has been scheduled for May 29 and 30 in the Sweeney Convention Center, 201 West Marcy Street, Santa Fe, New Mexico, beginning at 9:00 a.m. both mornings. Persons wishing to testify at any of the three hearings should register by telephoning 1-800-955-9477. Requests to testify should be received by May 16, 1990 (EPA had previously required persons wishing to testify to register by May 11. However, because of the additional hearing in Santa Fe, EPA is extending the registration deadline to May 16).

In reaching its proposed decision on DOE's no-migration variance request, EPA reviewed many other documents. EPA reviewed DOE's "Draft Final Plan for the Waste Isolation Pilot Plant Test Phase: Performance Assessment" (December 1989, DOE/WIPP 89-011). The Performance Assessment provides important details on DOE's planned activities during the test phase. For example, the Performance Assessment contains 66 different categories of supporting activities of which 30 involve in-situ experiments of different types. These experiments will include measurements to better define the characteristics of the surrounding geology, as well as studies of the performance of each component of the repository system (e.g., seals, backfill).

EPA also reviewed a Draft Waste Retrieval Plan (WIPP/DOE 90-022, January 1990) prepared by DOE. One of the key conditions of the proposed variance is that the waste be removed if DOE's Performance Assessment cannot demonstrate compliance with the standards of 40 CFR 268.6 with respect to permanent disposal of mixed waste in the repository. The Draft Waste Retrieval plan outlines the retrieval processes that will be implemented should DOE fail to make the no-migration demonstration. Specific aspects of the retrieval process addressed by this document include, for example, general waste retrieval, retrieval readiness, interim storage, and risk assessments.

Since EPA published its proposed decision in the **Federal Register**, DOE submitted the final plan for the WIPP test phase to the Agency ("WIPP Test Phase Plan: Performance Assessment (April 1990, DOE/WIPP 89-011, Revision 0) and the final Retrieval Plan (WIPP/DOE 90-022, May 1990). (Although the Performance Assessment document is considered final for the Agency's review, DOE considers the test plan to be a living document which will be reassessed and revised periodically based on the future needs of the Project. The Agency is making these documents available to the public as part of the rulemaking record on its proposed no-migration variance for the WIPP.

It should be noted that the Agency is not extending the comment period for review of the decision—that is, the close of the comment period will be June 5, 1990. The Agency does not believe additional time is required because the final Performance Assessment and the Final Waste Retrieval Plan have not changed substantially from the December 1989 and January 1990 drafts. Nevertheless, to assist the public in understanding the changes made to the documents, the Agency is including in the supporting material a summary of

the changes that were made by DOE to the draft documents.

Dated: May 8, 1990.

Don R. Clay,

Assistant Administrator for Solid Waste and Emergency Response.

[FR Doc. 90-11176 Filed 5-9-90; 2:42 p-m]

BILLING CODE 6560-50-M

[OPTS-44551; FRL 3743-1]

TSCA Chemical Testing; Receipt of Test Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the receipt of test data on 2-mercaptobenzothiazole (MBT) (CAS No.149-30-4), submitted pursuant to a final test rule. Data was also received on octamethylcyclotetrasiloxane (omcts) (CAS No. 556-67-2), submitted pursuant to a consent order. All data were submitted under the Toxic Substances Control Act (TSCA). Publication of this notice is in compliance with section 4(d) of TSCA.

FOR FURTHER INFORMATION CONTACT: Michael M. Stahl, Director, Environmental Assistance Division (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-543B, 401 M St., SW., Washington, DC 20460, (202) 554-1404, TDD (202) 554-0551.

SUPPLEMENTARY INFORMATION: Section 4(d) of TSCA requires EPA to publish a notice in the **Federal Register** reporting the receipt of test data submitted pursuant to test rules promulgated under section 4(a) within 15 days after it is received. Under 40 CFR 790.60, all TSCA section 4 consent orders must contain a statement that results of testing conducted pursuant to these testing consent orders will be announced to the public in accordance with section 4(d).

I. Test Data Submissions

Test data for MBT was submitted by the Chemical Manufacturers Association pursuant to a test rule at 40 CFR 799.2475. It was received by EPA on April 19, 1990. The submission describes a 3-month study of the potential effects of orally administering MBT on behavior and neuromorphology in rats. This testing is required by this test rule. This chemical is used as a vulcanization accelerator in tires.

Test data for omcts was submitted by the Silicones Health Council pursuant to a consent order at 40 CFR 799.5000. It was received by EPA on April 18, 1990. The submission describes the bioconcentration of ^{14}C residues by fathead minnows. This testing is required by this consent order. This chemical is used as an intermediate in the production of polydiamethylsiloxane.

EPA has initiated its review and evaluation process for these data submissions. At this time, the Agency is unable to provide any determination as to the completeness of the submissions.

II. Public Record

EPA has established a public record for this TSCA section 4(d) receipt of data notice (docket number OPTS-44551). This record includes copies of all studies reported in this notice. The record is available for inspection from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays, in the TSCA Public Docket Office, Rm. NE-G004, 401 M St., SW., Washington, DC 20460.

Authority: 15 U.S.C. 2603.

Date: May 1, 1990.

Charles M. Auer,

Acting Director, Existing Chemical Assessment Division, Office of Toxic Substances.

[FR Doc. 90-11066 Filed 5-10-90; 8:45 am]

BILLING CODE 6560-50-D

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street NW., Room 10220. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224-010968-006.

Title: Maryland Port Administration and Hapag-Lloyd AG/Atlantic Division Terminal Agreement.

Parties: Maryland Port Administration; Hapag-Lloyd AG/ Atlantic Division.

Synopsis: The Agreement extends the term of the basic agreement on a month-to-month basis for three months beginning on May 9, 1990, pending the final negotiation of a long term lease.

Agreement No.: 224-200307-001.

Title: Port of Portland/James River II, Inc., DBA Western Transportation Terminal Agreement.

Parties: Port of Portland; James River II, Inc., DBA Western Transportation.

Synopsis: The Agreement amends the basic agreement to provide that any renewal option or modification to the agreement will be filed with the Commission.

By Order of the Federal Maritime Commission.

Dated: May 7, 1990.

Ronald D. Murphy,

Assistant Secretary.

[FR Doc. 90-10990 Filed 5-10-90; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Amsterdam-Rotterdam Bank N.V. and Stichting Amro; Proposal To Engage in the Execution and Clearance of Securities, Futures Contracts, and Options on Futures Contracts

Amsterdam-Rotterdam Bank N.V. and Stichting Amro, both of Amsterdam, the Netherlands ("Applicants"), have applied pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) (the "BHC Act") and § 225.23(a)(3) of the Board's Regulation Y (12 CFR 225.23(a)(3)) for permission to engage *de novo* through their indirect subsidiary, International Clearing Services (U.S.) Inc., Chicago, Illinois ("Company") in the following activities: (1) Discount securities brokerage, margin lending and related activities pursuant to § 225.25(b)(15) of Regulation Y (12 CFR 225.25(b)(15)); (2) executing and clearing securities, futures contracts, and options on futures contracts for floor traders dealing for their own accounts, including providing financing for floor traders; and (3) providing futures commission merchant ("FCM") services pursuant to § 225.25(b)(18) of Regulation Y (12 CFR 225.25(b)(18)), with respect to the types of instruments permitted by § 225.25(b)(18) and with respect to three futures contracts not previously authorized by the Board as permissible under § 225.25(b)(18). Applicants propose that these activities be conducted nationwide.

Section 4(c)(8) of the BHC Act provides that a bank holding company may, with prior Board approval, engage directly or indirectly in any activities "which the Board after due notice and

opportunity for hearing has determined (by order or regulation) to be so closely related to banking or management or controlling banks as to be a proper incident thereto."

A particular activity may be found to meet the "closely related to banking" test if it is demonstrated that banks have generally provided the proposed activity; that banks generally provide services that are operationally or functionally so similar to the proposed activity so as to equip them particularly well to provide the proposed activity; or that banks generally provide services that are so integrally related to the proposed activity as to require their provision in a specialized form. *National Courier Ass'n* v. *Board of Governors*, 516 F.2d 1229, 1337 (D.C. Cir. 1975) ("*National Courier*"). In addition, the Board may consider any other basis that may demonstrate that the activity has a reasonable or close relationship to banking or managing or controlling banks. "Board Statement Regarding Regulation Y," 49 FR 806 (1984).

In determining whether an activity meets the second, or proper incident to banking, test or section 4(c)(8), the Board must consider whether the performance of the activity by an affiliate of a holding company "can reasonably be expected to produce benefits to the public, such as greater convenince, increased competition, or gains in efficiency that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices.

Applicants contend that the clearance of securities, futures contracts, and options on futures contracts for floor traders dealing for their own accounts is an activity incidental to securities brokerage and margin leading under § 225.25(b)(15), and if the Board were to conclude that they are not such incidental activities, Applicants contend that these clearance transactions are permissible under § 225.25(b)(3) because corporate trust departments may engage in clearing activities pursuant to this section. If the Board does not conclude that Company's proposed clearing activities are within the scope of either § 225.25(15) or § 225.25(b)(3), Applicants contend that the proposed activities are closely related to banking under the *National Courier* test, and that permitting bank holding companies to engage in the proposed activities would result in increased competition and gains in efficiency.

Applicants have applied to act as an FCM in the provision of execution and clearance services with respect to (a) Bond Buyer Municipal Bond Index futures, (b) Standard and Poor's ("S&P") 100 Stock Price Index futures contract, (c) S&P 500 Stock Price Index futures contract; (d) Options on the S&P 500 Stock Price Index futures contract, (e) NYSE Composite Index futures contract, (f) Options on the NYSE Composite Index futures (g) S&P Over-the-Counter 250 Stock Index futures contract, (h) Major Market Index futures contract, (i) NASD Financial Index futures contract, (j) FT-SE 100 Equity Index futures contract (k) National Over-the-Counter Index futures contract, (l) Major Market Index Maxi Stock Index futures contract, (m) Major Market Index Mini Stock Index futures contract, (n) GNMA Cash Settled futures contract, (o) Value Line Futures (Maxi) and Value Line Futures (Mini) Index futures contract, (p) Options on the Bond Buyer Municipal Bond Index futures contract, (g) Nikkei Stock Average futures contract, and (r) Financial Times Stock Index futures contract. The Board has previously approved the execution and clearance of the listed futures contracts. Company would conduct its FCM activities in accordance with the limitations of 12 CFR 225.25(b)(18).

The Board has consistently extended the list of futures contracts and options on futures contracts which FCM's may execute and clear pursuant to § 225.25(b)(18). *See, e.g., BankAmerica*, 75 Federal Reserve Bulletin 78 (1989). For this reason, Applicants also seek approval to provide FCM services with respect to the following futures contracts that have not previously been approved by the Board as permissible under § 225.25(b)(18): (1) Pound Sterling Euro-Rate Differential futures contract, (2) Deutsche Mark Euro-Rate Differential futures contract, and (3) Japanese Yen Euro-Rate Differential futures contract.

In publishing the proposal for comment, the Board does not take any position on issues raised by the proposal under the BHC Act. Notice of the proposal is published solely in order to seek the views of interested persons on the issues presented by the application and does not represent a determination by the Board that the proposal meets or is likely to meet the standards of the BHC Act.

Any request for a hearing on this application must comply with § 262.3(e) of the Board's Rules of Procedure (12 CFR 262.3(e)).

The application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of New York.

Any comments or requests for hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551, not later than June 7, 1990.

Board of Governors of the Federal Reserve System, May 7, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-11020 Filed 5-10-90; 8:45 am]

BILLING CODE 6210-01-M

The Peoples Holding Co. et al.; Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than May 30, 1990.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *The Peoples Holding Company*, Fort Walton Beach, Florida; to become a bank holding company by acquiring 100 percent of the voting shares of Peoples Federal Savings Bank, Fort Walton Beach, Florida, which is to be known as Community & Peoples State Bank, Fort Walton Beach, Florida.

B. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Enterprise Financial Corp.*, Brown Deer, Wisconsin; to become a bank holding company by acquiring 100 percent of the voting shares of Enterprise Bank, Brown Deer, Wisconsin, a *de novo* bank.

2. *NI Bancshares Corporation,* Sycamore, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of The National Bank & Trust Company of Sycamore, Sycamore, Illinois.

C. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Montgomery County Bancshares, Inc.,* Little Rock, Arkansas; to acquire 100 percent of the voting shares of Junction City Holding Company, Junction City, Arkansas, and thereby indirectly acquire Union State Bank, Junction City, Arkansas.

Board of Governors of the Federal Reserve System, May 7, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-11021 Filed 5-10-90; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL RESERVE BOARD

Standard Chartered PLC; Proposal to Purchase and Sell Platinum Coins Issued by Foreign Governments as Legal Tender

Standard Chartered PLC, London, England ("Applicant"), has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1983(c)(8)) (the "BHC Act"), and § 225.23 of the Board's Regulation Y (12 CFR 225.23), for permission to engage *de novo* through its wholly-owned subsidiary, Mocatta Metals Corporation, New York, New York ("Company"), in the purchase and sale of platinum coins issued by the Canadian and Australian governments as legal tender.

In particular, Applicant proposes to acquire the coins solely for the purpose of effecting their distribution, and would not purchase the coins for investment or speculation for its own account. Company would maintain an inventory of the coins to meet anticipated customer interest. Company may also enter into forward contracts with its customers to sell the coins at fixed prices. Company would not offer investment advice concerning the coins.

Section 4(c)(8) of the BHC Act provides that a bank holding company may, with Board approval, engage in any activity "which the Board after due notice and opportunity for hearing has determined (by order or regulation) to be so closely related to banking or managing or controlling banks as to be a proper incident thereto."

A particular activity may be found to meet the "closely related to banking" test if it is demonstrated that banks have generally provided the proposed activity; that banks generally provide services that are operationally or functionally so similar to the proposed activity so as to equip them particularly well to provide the proposed activity; or that banks generally provide services that are so integrally related to the proposed activity as to require their provision in a specialized form. *National Courier Association* v. *Board of Governors,* 516 F.2d 1229, 1237 (D.C. Cir. 1975). In addition, the Board may consider any other basis that may demonstrate that the activity has a reasonable or close relationship to banking or managing or controlling banks. Board Statement Regarding Regulation Y, 49 FR 806 (1984).

Applicant contends that the proposed activities are closely related to banking because banks are engaging in such activities. The Office of the Comptroller of the Currency permits national banks to purchase and sell platinum coins issued by foreign governments as legal tender under a national bank's authority to buy and sell "exchange, coin, and bullion." 12 U.S.C. 24(Seventh). In addition, Applicant contends that the activities of Company would be operationally and functionally identical to the activities of banks engaging in the purchase and sale of legal tender in the form of gold and silver coins. The Board has previously approved the purchase and sale of gold and silver bullion by a bank holding company. *Standard and Chartered Banking Group Limited,* 38 FR 27,552 (October 4, 1973).

In determining whether a particular activity is a proper incident to banking, the Board considers whether the performance of the activity by an affiliate of a holding company can reasonably be expected to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices.

Applicant maintains that Company's *de novo* participation in the market for platinum coins would enhance competition and result in greater convenience and gains in efficiency.

With respect to possible adverse effects, Applicant contends that Company's *de novo* entry into the business of purchasing and selling platinum coins would raise no questions of undue concentration or resources or decreased or unfair competition. In addition, Applicant maintains that Company's conduct of the proposed activities raise no question of unsound banking practices since Company would not engage in this activity for speculative purposes. Company would protect itself against fluctuations in the price of platinum coins through the use of inventory management controls and hedging transactions. Applicant proposes to utilize spot and forward transactions in physical commodities solely for hedging purposes and as an incident to its purchase and sale of platinum coins.

In publishing the proposal for comment the Board does not take a position on issues raised by the proposal. Notice of the proposal is published solely in order to seek the views of interested persons on the issues presented by the application and does not represent a determination by the Board that the proposal meets or is likely to meet the standards of the BHC Act.

Comments are requested on whether the proposed activities are "so closely related to banking or managing or controlling banks as to be a proper incident thereto," and whether the proposal as a whole can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices."

Any request for a hearing on these questions must, as required by § 262.3(e) of the Board's Rules of Procedure (12 CFR 262.3(e)), be accompanied by a statement of the reasons why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors of the Federal Reserve Bank of San Francisco.

Any comments or requests for hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551, not later than June 11, 1990.

Board of Governors of the Federal Reserve System, May 7, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-11019 Filed 5-10-90; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL RESERVE SYSTEM

Warburg, Pincus & Co., et al.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notifications listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express they views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than May 25, 1990.

A. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Warburg, Pincus & Co.;* E.M. Warburg, Pincus & Co., Inc., ; Warburg, Pincus Ventures, Inc.; Warburg, Pincus Capital Company, L.P.; Warburg, Pincus Capital Partners, L.P.; Lionel I. Pincus and John L. Vogelstein (collectively, the "Applicant"), New York, New York; to acquire an additional 3.7 percent of the voting shares of Mellon Bank Corporation, Pittsburgh, Pennsylvania, for a total of 19.9 percent.

B. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Dr. Roger Chih-Shen Lin,* Honolulu, Hawaii; to acquire 100 percent of the voting shares of EastWest Financial Group, Inc., Honolulu, Hawaii, and thereby indirectly acquire EastWest Bank, National Association, Kihei, Hawaii.

Board of Governors of the Federal Reserve System, May 7, 1990.

Jennifer J. Johnson,
Associate Secretary of the Board.

[FR Doc. 90-11022 Filed 5-10-90; 8:45 am]
BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

[Announcement Number 045]

Cooperative Agreements; Evaluate New Tuberculosis Diagnostic Tests Based on Polymerase Chain Reaction (PCR)

Introduction

The Centers for Disease Control (CDC) announces the availability of Fiscal Year 1990 funds for a cooperative agreement to evaluate a new diagnostic test for mycobacterial diseases based on the polymerase chain reaction (PCR).

Authority

This program is authorized by the Public Health Service Act section 301(a) [42 U.S.C. 241(a)], as amended, and section 317(k) [42 U.S.C. 247b(k)]. Regulations governing programs for preventive health services are codified at 432 CFR part 51b. Subpart A contains general provisions relating to this program.

Eligibility

Eligible applicants for this project include nonprofit and for-profit clinical laboratories that identify a minimum of 100 patients with disease due to *Mycobacterium (M.) tuberculosis* and 25 cases due to other mycobacteria, predominantly *M. avium* complex, each year. Thus, universities, colleges, research institutions, hospitals, and other public and private organizations, State and local health departments and small, minority and/or women-owned businesses are eligible for these cooperative agreements. In addition, eligible applicants must show expertise and facilities in laboratory diagnosis of infectious diseases. In particular, demonstrate proficiency in methods currently being used in the diagnosis of mycobacterial diseases, namely, examination of sputum smears by light microscopy and the culture and speciation of organisms from clinical specimens, since only they would have the necessary capabilities to develop and evaluate diagnostic tests.

Availability of funds

Approximately $136,000 is available in Fiscal Year 1990 to fund one or more cooperative agreements. It is expected that awards will begin on or about September 15, 1990, for a 12-month project period. Funding renewals may be made; however, they are contingent on funding availability and the decision by CDC that further evaluation of the diagnostic test is warranted.

Funds may be used to support personnel and to purchase equipment, supplies, and services directly related to project activities. Funds may not be used to support inpatient care or to supplant State or local health department funds available for tuberculosis control.

Purpose

The purpose of this program is to evaluate in a clinical laboratory setting a new diagnostic test based on PCR for more rapid identification of disease due to *Mycobacterium* spp. This test should be evaluated among persons with disease due to *M. tuberculosis, M. avium* complex, or other mycobacteria, as well as in individuals with other conditions that might mimic mycobacterial disease. Test characteristics will be related to patient demographic information, the tuberculin skin test, clinical parameters of disease, and the current diagnostic tests for tuberculosis, which include microscopy, radiometric techniques, and culture and speciation of organisms from clinical specimens.

Program Requirements

In conducting activities to achieve the purpose of this program, the recipient shall be responsible; for conducting activities under A. below and CDC will be responsible for conducting activities under B. below.

A. Recipient Activities

1. Design a research plan to evaluate the PCR diagnostic test utilizing protocol(s) developed by CDC.
2. Provide suggestions for appropriate changes which would facilitate use of the test in a clinical laboratory.
3. Implement the protocol(s) provided by CDC and evaluate the sensitivity and specificity of the test for the diagnosis of mycobacterial disease from clinical specimens such as sputum, blood and spinal fluid.
4. Evaluate PCR as a cost-effective and practical tool for use in a clinical laboratory for the diagnosis of mycobacterial diseases.
5. Collaborate with CDC personnel on the analysis and publication of the findings.

Applicants must include in their applications all relevant documentation which pertains to the use and reporting of laboratory tests and patient demographic information for the purposes described in their proposal, as well as a carefully described plan to assure the confidentiality of patient records and test results, and how this information will be handled.

B. Centers for Disease Control Activities

1. Develop and provide the protocol(s) and necessary DNA primers and probes needed to perform the test. One or more pairs of primers for the identification of *M. tuberculosis, M. avium* complex, or other mycobacteria will be provided.
2. Collaborate and consult in the implementation or protocol(s).
3. Assist in data management and analysis.
4. Assist in the evaluation of program effectiveness.
5. Prepare and publish findings.

Review and Evaluation Criteria

Applications will be reviewed and evaluated on the following criteria: A. The extent to which the applicant demonstrates: 1. Experience during 1988 and 1989 in providing laboratory diagnostic services for persons with mycobacterial disease. (10 points)

2. The ability to obtain diagnostic specimens from persons suspected of having disease due to *M. tuberculosis, M. avium* complex or other mycobacterial species. The number of diagnostic specimens must be sufficient to ensure statistical validity. The actual number required will vary depending on the research plan proposed. (10 points)

3. Past performance of the applicant in evaluating diagnostic tests. (10 points)

4. Ability to identify *M. tuberculosis, M. avium* complex, and other mycobacteria. (10 points)

5. Past experience with DNA probes and PCR. While prior experience with DNA technologies is not required, possessing such experience will be viewed favorably. (10 points)

B. The extent to which short-term and long-term objectives are provided, and the extent to which they are realistic, measurable, time-phased, and related to recipient activities. (15 points)

C. The overall potential effectiveness of the applicant's proposed activities and methods for meeting the stated objectives. (15 points)

D. The adequacy of plans to evaluate progress in implementing methods and in achieving objectives. (10 points)

E. The inclusion of relevant documentation which permits the applicant to report the laboratory results and patient information, for the purposes described in the applicant's proposal. (5 points)

F. The inclusion of a detailed description of the applicant's plan for assuring confidentiality of patient records and test results, and an explanation of how such information will be handled. (5 points)

In addition, consideration will be given to the extent to which the budget request is clearly justified and consistent with the intended use of funds.

Other Consideration

Nonexempt research activities involving human subjects must be reviewed and approved by an Institutional Review Board and the Office for Protection from Research Risk, National Institutes for Health.

E.O. 12372 Review

Applications are subject to review as governed by Executive Order 12372, Intergovernmental Review of Federal Programs.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance Number is 13.116, Project Grants and Cooperative Agreements for Tuberculosis Control Programs.

Application Submission and Deadline

The original and two copies of the application (form PHS 5161–1) must be submitted to Edwin L. Dixon, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road NE., room 300, Atlanta, GA 30305, on or before June 1, 1990.

Where To Obtain Additional Information

Information on application procedures, copies of application forms, and other material may be obtained from Victoria Westberg, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road NE., room 300, Atlanta, GA 30305, (404) 842–6640 or FTS 236–6640.

Announcement Number 045, "Cooperative Agreements: Evaluate New Tuberculosis Diagnostic Tests Based on Polymerase Chain Reaction (PCR)," must be referenced in all requests for information pertaining to these projects.

Technical assistance may be obtained from Robin Huebner, Division of Tuberculosis Control, Center for Prevention Services, Centers for Disease Control, Atlanta, GA 30333, (404) 639–2544 or FTS 236–2544.

Dated: May 7, 1990.

Robert L. Foster,

Acting Director, Office of Program Support, Centers for Disease Control.

[FR Doc. 90–11029 Filed 5–10–90; 8:45 am]

BILLING CODE 4160–18–M

[Announcement Number 030]

Cooperative Agreement To Conduct Epidemiological and Ecological Research Studies of Lyme Disease, in NY; Availability of Funds for Fiscal Year 1990

Introduction

The Centers for Disease Control (CDC) announces the availability of funds to provide assistance to the New York State Department of Health to perform five related studies on Lyme disease (LD): 1) Retrospective active case surveillance for acute LD in defined population areas of New York State; 2) Retrospective active case surveillance for neuroborreliosis and chronic Lyme arthritis, and including collecting clinical and epidemiologic information in defined population areas; 3) Study to determine the prevalence and incidence of LD in selected hyperendemic areas Westchester and Suffolk County, New York; 4) Study to correlate the density of spirochete infected *Ixodes dammini* with the prevalence and incidence of LD in hyperendemic areas of Westchester and Suffolk Co. N.Y. (concurrent with 3 above); 5) Study to define vertebrate reservoirs and vegetation patterns associated with endemic LD in New York State (concurrent with 3 above).

Authority

This program is authorized under section 317(k)(3) of the Public Health Service Act [42 U.S.C. 247b (k)(3)], as amended.

Eligible Applicant

Although 6,945 cases of LD have been reported from passive surveillance in the United States during the years 1987–1988, the disease still occurs most often in northeastern areas of the U.S. The major focus of peridomestically transmitted LD in the U.S. is in Westchester and Suffolk counties in New York where in 1988, 44% of the LD cases in the United States were reported to the New York Department of Health.

The statistical validity of the studies proposed above depend on high prevalence and maximum incidence rates in large, high-risk population. Nationwide, the majority of these sites occur in New York. Initial studies conducted by federal, State and local researchers in New York provide background entomologic, ecologic, and clinical information which will support the proposed studies.

Studies of this magnitude will involve extensive coordination and cooperation among federal, State and local health authorities. The New York State

Department of Health is the only applicant who has the resources to perform all of the studies outlined above and has access to public and provider medical records from which a statistically valid sample can be obtained.

Availability of Funds

Approximately $250,000 will be available in Fiscal Year 1990 to fund this cooperative agreement. It is expected that the cooperative agreement will begin on or about July 1, 1990, for a 12-month budget period within a project period of up to 3 years. This funding estimate is subject to change. There are no matching or cost participation requirements; however, the applicant's contribution to the overall program costs, if any, should be provided on the application. Continuation awards within the project period will be made on the basis of satisfactory progress and availability of funds.

Purpose

The purpose of this cooperative agreement is to provide assistance to the State of New York in assessing the true incidence and prevalence of Lyme disease, to evaluate the risk of disease associated with location and abundance of infected *I. dammini* ticks and to evaluate the ecologic factors which lead to increased numbers of infected ticks. Data gathered in this cooperative agreement may be used in other areas to develop prevention and control programs.

Data will be collected from 5 related studies on Lyme disease. Studies 1 and 2 will provide a means to evaluate true incidence and prevalence of the disease through retroactive case finding, utilizing standard epidemiologic and clinical case definitions. Both chronic Lyme arthritis and neruroborreliosis will be assessed in addition to acute LD. Results can be used as a model which will enable development of effective public health strategies for intervention and improve State and national surveillance for Lyme disease.

Studies 3 and 4 of this project will assist in correlating the density of infected *I. dammini* on residential properties with the prevalence and incidence of LD transmission. The greatest risk of LD transmission exists when *Borrelia burgdorferi* infected *I. dammini* ticks are present on residential properties, exposing residents to daily contact with infected ticks. These studies assist with the identification of the ecological factors which lead to increased populations of infected ticks on residential properties and to correlate these densities with incidence of LD transmission in Westchester and Suffolk Co., N.Y. Information obtained will enable development of prevention and control strategies to interrupt transmission in the peridomestic environment.

Study 5 will assist New York State with quantitatively characterizing the vertebrate reservoir hosts of LD and their habitat features in relation to landscape and vegetation patterns using standardized field collection and observation methods. Results may provide valuable correlations between flora, fauna and physical features of the landscape and the risk of acquiring LD. These results will enable public health officials in New York to design and target integrated control strategies at specific landscape features or at specific links in the transmission cycle to reduce disease risk in highly endemic foci.

Program Requirements

In conducting activities to achieve the purpose of this program, the recipient shall be responsible for conducting activities under A below and CDC will be responsible for conducting activities under B below.

A. Recipient Activities

Activities for each cooperative agreement study are as follows:

Study 1.

Conduct retrospective active case surveillance for acute LD in defined population areas of New York State including: a. Develop a procedure to gather, compile and evaluate statistically valid data (95% confidence level with a plus or minus 5% reliability).

b. Conduct a retrospective study by active case surveillance for LD cases (1987–1989 CDC case definition) by comparing current passive surveillance system and evaluate sensitivity with specificity of the passive system.

c. Develop a procedure to gather, compile, and evaluate laboratory and treatment data and LD diagnoses from a representative sample of physicians offices and hospital discharge records.

d. Compare incidence of reported disease to incidence determined by active case finding surveillance. Determine proportion of cases in both data sets which meet case definition and clinical criteria.

e. Evaluate the extent to which these diagnoses agree with the CDC standardized clinical and case definitions.

f. Summarize diagnostic data by type of tests used, results of tests, and laboratories performing tests.

g. Compare office and inpatient treatment with national recommendations.

Study 2.

Conduct retrospective active case surveillance from hospital records for neuroborreliosis and chronic Lyme arthritis and collect clinical and epidemiologic information in defined population areas: a. Ascertain the incidence, prevalence, and other epidemiologic characteristics of Lyme arthritis and neuroborreliosis.

b. Characterize the clinical manifestations, laboratory results, and the modes of and responses to therapy for neuroborreliosis and chronic Lyme arthritis.

c. Retrospectively review hospital records with discharge diagnoses made after 1986. Compare these to the reported incidence.

d. Determine incidence and prevalence of cases above meeting standardized clinical definitions.

e. Ascertain numbers of cases being treated by home intravenous therapy.

Study 3.

Determine the prevalence and incidence of LD in selected hyperendemic areas of Westchester and Suffolk counties, New York: a. Conduct self reporting and serologic surveys in approximately 300–400 households.

b. Develop questionnaire and enroll approximately 1200 to 1500 participants to obtain and correlate basic epidemiologic data (address, county, age, sex, race and occupation, previous history of LD, and document any history of serologic results). The epidemiologic and serologic results should be linked whenever possible.

Study 4.

Correlate the density of spirochete-infected *Ixodes dammini* ticks with the prevalence and incidence of LD in hyperendemic areas of Westchester and Suffolk counties, New York (concurrent with 3 above).

a. Identify a minimum of 3–4 residential neighborhoods in each of the Westchester and Suffolk County study areas used in study 3. Nymphal *I. dammini* should be abundant on the majority of individual properties.

b. Enlist cooperation of the 300–400 households in each of the two counties in an epidemiological study associating tick abundance and the incidence of LD transmission.

c. Determine the abundance of *I. dammini* infected with *B. burgdorferi* on each residence.

Study 5.

Define vertebrate reservoirs and vegetation patterns associated with endemic LD in New York State (Westchester and Suffolk counties).

a. Identify study sites representing various ecological conditions in Westchester and Suffolk counties as described in studies 3 and 4.

b. Categorize and describe sites with respect to flora, fauna, structural factors and other criteria that define their ecological characteristics.

c. Establish a plan to systematically sample reservoir hosts from above sites using collection methods that are objective, standardized and reproducible.

d. Determine *B. burgdorferi* infection rates in ticks and vertebrate hosts.

e. Determine serologic prevalence of *B. burgdorferi* infection in wildlife species sampled by conducting ELISA or IFA tests.

f. Correlate prevalence of infection in ticks and vertebrate hosts with epidemiologic data obtained under studies 3 and 4 above.

B. CDC Activities

1. Provide consultation and technical assistance in planning, conducting and evaluating these studies.

2. Provide current, pertinent, and scientific information on acute and chronic LD.

3. Provide assistance in data management/analysis.

4. Assist in evaluating entomologic, ecologic, epidemiologic and diagnostic methods to be used to conduct the described studies.

5. Provide assistance with laboratory diagnostics.

6. Assist in transferring results from these studies and possible applications of these results to other states and communities when appropriate.

Projects funded through a cooperative agreement that involve collection of information from 10 or more individuals will be subject to review under the Paperwork Reduction Act.

Review and Evaluation Criteria

The application will be evaluated according to the following criteria: 1. The applicant's understanding of the purposes of the studies and the feasibility of producing the required data.

2. The extent to which background information and other data demonstrate that the applicant has the appropriate organizational structure, administrative support, accessibility to an adequate number of medical provider records in the target population to produce statistically valid results, and the ability to accomplish study goals.

3. The degree to which the proposed objectives are consistent with study goals and are realistic, specific, measurable and time-phased.

4. The quality of the plan of operation for conducting the proposed activities and the degree to which the plan covers proposed activities outlined under "Recipient Activities" and specifies the what, who, where, how and the timing for start and completion of each.

5. The quality of the strategies to obtain accurate and sufficient samples of hospital-based practitioner medical records and out-patient hospital records.

6. The degree to which the research plan will achieve the objectives and the methods and instruments to be used will evaluate accomplishments of objectives and activities.

7. The extent to which methods and strategies proposed are financially feasible.

8. The extent to which qualified and experienced personnel are available to carry out the proposed activities.

Executive Order 12372 Review

This application is subject to Intergovernmental Review of Federal Programs as governed by Executive Order 12372 (45 CFR 100).

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance Number is 13.283.

Application Submission and Deadline

The New York State Department of Health must submit an original and two copies of the application (PHS Form 5161-1) to Edwin L. Dixon, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road NE., room 300, Atlanta, GA 30305, on or before May 20, 1990.

Where To Obtain Additional Information

If you are interested in obtaining additional information regarding this project, please reference Announcement Number 030, entitled "Epidemiological and Ecological Research Studies of Lyme Disease in New York State," and contact the following:

Business: Marsha A. Jones, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road NE., room 300, Atlanta, GA 30305 (404) 842-6640 or FTS 236-6640.

Technical: Robert B. Craven, M.D.; Robert, G. McLean, Ph.D.; or Joseph Piesman, Sc.D., Division of Vector-Borne Infectious Diseases, Center for Infectious Diseases, Centers for Disease Control, Fort Collins, Colorado 80522, (303) 221-6400 or FTS 330-6400.

Dated: May 4, 1990.

Robert L. Foster,

Acting Director, Office of Program Support, Centers for Disease Control.

[FR Doc. 90-11028 Filed 5-10-90; 8:45 am]

BILLING CODE 4160-18-M

Family Support Administration

Forms Submitted to the Office of Management and Budget for Clearance

The Family Support Administration (FSA) will publish on Fridays information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance, in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). Following is the Federal Register submission for FSA.

(For a copy of the package below, call the FSA, Reports Clearance Officer on 202 252-5604.)

OCSE-156—Child Support Enforcement Program Quarterly Data Report; OCSE-158—Child Support Enforcement Program Annual Data Summary Report—The information obtained on these forms will be used to report Child Support Enforcement Activities to the Congress as required by law, to complete performance indicators utilized in program audits, and to assist OCSE in monitoring and evaluating State Child Support Enforcement programs. OCSE-156—Respondents: State or local governments; Number of Respondents: 54; Frequency of Response: 4; Average Burden per response: 2.7 hours; Estimated Annual burden: 583.2 hours. OCSE-158—Respondents: State or local governments; Number of Respondents: 54; Frequency of Response: 1; Average Burden per response: 1 hour; Estimated Annual Burden: 54 hours.

Total Estimated Annual Burden: 637.2 hours.

OMB Desk Clearance Officer: Shannah Koss-McCallum.

Written comments and recommendations for the proposed information collection should be sent directly to the appropriate OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive

Office Building, Room 3201, 725 17th Street NW., Washington, DC 20503.

Dated: May 1, 1990.

Sylvia E. Vela,

Deputy Associate Administrator, Office of Management and Information System, FSA.

[FR Doc. 90-10772 Filed 5-10-90; 8:45 am]

BILLING CODE 4150-04-M

Forms Submitted to Office of Management and Budget for Clearance

The Family Support Administration (FSA) will publish on Friday information collection packages submitted to the Office of Management and Budget (OMB) for clearance, in compliance with the Paperwork Reduction Act (44 U.S.C. chapter 35). Following are the packages submitted to OMB since the last publication on April 13, 1990.

(For a copy of a package, call the FSA, Report Clearance Officer 202-252-5604).

Worksheet for Integrated AFDC, Adult, Food Stamps and Medicaid Quality Control Reviews—FSA-4340-0970-0072—The integrated worksheet serves to document the findings of state quality control reviewers who review the correctness of a sample of eligibility decisions made by the states for the AFDC, Food Stamp and Medicaid programs. The findings are used to identify areas where corrective action is needed. *Respondents:* State or local governments; *Number of Respondents:* 63,000; *Frequency of Response:* 1; *Average Burden per Response:* 11.0236 hours; *Estimated Annual Burden:* 694,487 hours.

Integrated Review Schedule—FSA-4357-0970-0035—State agencies are required to perform quality control reviews for each of the three Federal assistance programs: AFDC, FS, and Medicaid. The Integrated Review Schedule is jointly designed and used by FSA, FNS, and HCFA. The review schedule serves as the comprehensive data entry form for all quality control reviews in the AFDC, FS and Medicaid programs. *Respondents:* State or local government; *Number of Respondents:* 63,000; *Frequency of Response:* 1; *Average Burden per Response:* 1 hour; *Estimated Annual Burden:* 63,000 hours.

OMB Desk Clearance Officer: Shannah Koss McCallum.

Consideration will be given to comments and suggestions received within 60 days of publication. Written comments and recommendations for the proposed information collections should be sent directly to the appropriate OMB Desk Officers designated above at the following address: OMB Reports Management Branch, New Executive Office Building, Room 3201, 725 17th Street NW., Washington, DC 20503.

Dated: May 2, 1990.

Naomi B. Marr,

Associate Administrator, Office of Management and Information Systems.

[FR Doc. 90-10935 Filed 5-10-90; 8:45 am]

BILLING CODE 4150-04-M

Health Resources and Services Administration

Advisory Council Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory body scheduled to meet during the month of June 1990:

Name: HRSA AIDS Advisory Committee.

Time: June 7-8, 1990, 9 a.m.

Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815. The meeting is open to the public.

Purpose: The Committee advises the Secretary with respect to health professional education, patient care/health care delivery to HIV-infected individuals, and research relating to transmission, prevention and treatment of HIV infection.

Agenda: The meeting will tentatively include welcome and opening remarks; update on programmatic and legislative issues; discussions on access to care for early intervention and access to chronic care services and facilities; and related Health Resources and Services Administration initiatives.

Anyone requiring information regarding the subject Committee should contact Dr. Samuel C. Matheny, Executive Secretary, HRSA AIDS Advisory Committee, Health Resources and Services Administration, Room 14A-11, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443-4568.

Agenda Items are subject to change as priorities dictate.

Date: May 7, 1990.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 90-10975 Filed 5-10-90; 8:45 am]

BILLING CODE 4160-15-M

Public Health Service

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Public Health Service (PHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. chapter 35). The following requests have been submitted to OMB since the list was last published on Friday, April 27, 1990.

(Call PHS Reports Clearance Officer on 202-245-2100 for copies of package)

1. Program of Financial Assistance for Disadvantaged Health Professional Students (FADHPS)—0915-0110—This revision will allow the Department to collect from health professions schools aggregate data on the race/ethnic characteristics of students assisted under the FADHPS grant program. It is anticipated that this question will add no burden for schools completing the grant application. The information will be used to evaluate the distribution of assistance under this program. Respondents: Non-profit institutions (health professions schools).

	Number of respondents	Number of hours per response	Number of responses per respondent
Reporting:			
57.2903	200	30 mins	1.0
57.2909	200	5 mins	0.5
Recordkeeping:			
57.2909(b), 57.2909(b)(1)(ii)*	200	20 mins	1.0

Estimated Annual Burden, 175 hours.

* Information collection burden cleared under OMB No. 0915-0047.

2. Health Hazard Evaluation/Technical Assistance and Emerging Problems—NEW—NIOSH conducts "short-term" field investigations each year to identify potential chemical, biological or physical hazards in a given workplace. Often times, a short turn around time is required. This request supplies generic data collection instruments for specific health hazards. Respondents: Individuals or households; Number of Respondents: 26,000; Number of Responses per Respondent: 1; Average Burden per Response: .508 hours; Estimated Annual Burden: 13,215 hours.

3. Amendments to Performance Standard for Laser Products—0910-0176—The amendment provides FDA with necessary additional monitoring by imposing basic reporting and recordkeeping requirements on manufacturers of laser products that are intended to be further incorporated with other components to form a finished laser product. Prior to the amendments, reporting and recordkeeping applied only to manufacturers of final laser products. Respondents: Businesses or other for-profit, small businesses or organizations.

	Number of respondents	Number of hours per response	Number of Responses per respondent
Reporting: 21 CFR 1040.10(a).	50	3 hrs.	1
Recordkeeping: 21 CFR 1040.10(a).	50	1 hr.	1

Estimated Annual Burden, 200 hours.

4. NIOSH Training Grants—42 CFR Part 86—Application and Regulations—NEW—The CDC administers health professions' training grants to assist in providing an adequate supply of qualified personnel in the field of occupational safety and health. Both long-term and short-term training projects will be funded. This request is for the information collection requirements in the regulation, as well as for newly developed Training Grant Application Forms, modeled after PHS 6025-½. Respondents: Non-profit institutions; Number of Respondents: 40; Number of Responses per Respondent: 1; Average Burden per Response: 71 hours; Estimated Annual Burden: 2,852 hours.

5. Health Education Assistance Loan (HEAL) Program—Lenders' Application for Insurance Claim (42 CFR 60.4)—0915-0036—The Department needs the information submitted on this form to determine if a lending institution has complied with the statutory and regulatory requirements for payment of an insurance claim. Respondents: Individuals or households, businesses or other for-profit, non-profit institutions; Number of Respondents: 70; Number of Responses per Respondent: 15.7; Average Burden per Response: 1 hour; Estimated Annual Burden: 1,100 hours.

6. Supplement to Routine AIDS Case Reporting Project—Pilot Study—NEW—This study will complement data received from the current AIDS/HIV surveillance projects. The instrument is administered via personal interview. Respondents also receive counseling on practices to avoid HIV transmission. This is a pilot study conducted by five health departments. Respondents: Individuals or households; Number of Respondents: 665; Number of Responses per Respondent: 1; Average Burden per Response: .5 hours; Estimated Annual Burden: 333 hours.

OMB Desk Officer: Shannah Koss-McCallum.

Written comments and recommendations for the proposed information collections should be sent directly to the OMB Desk Officer designated above at the following address: Human Resources and Housing Branch, New Executive Office Building, Room 3002, Washington, DC 20503.

Dated: April 30, 1990.

James M. Friedman,

Acting Deputy Assistant Secretary for Health (Planning and Evaluation).

[FR Doc. 89-10541 Filed 5-10-90; 8:45 am]

BILLING CODE 4160-17-M

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Public Health Service (PHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C chapter 35). The following requests have been submitted to OMB since the list was last published on April 27, 1990.

Call PHS Reports Clearance Officer on 202-245-2100 for copies of package)

7. Evaluation of NIH/NASA High School Curriculum Supplement, "Human Physiology in Space: A Program for America"—NEW—The evaluation of the NIH/NASA High School Curriculum Supplement, "Human physiology in Space: A Program for America," a pilot project being used this spring in New Mexico, will help policymakers determine whether to dedicate future resources to the wider distribution, revision, and/or development of new curriculum supplements tied to NASA Spacelab missions. Respondents: Individuals or households, State and local governmnents (New Mexico high school teachers and students). A notice that a request for expedited OMB review of this project has been requested by May 15 was published in the Federal Register of May 9; the complete questionnaries for the study were published in the **Federal Register** of May 9; the complete questionnaries for the study were published at that time.

	No. of respondents	No. of hours per response	No. of responses per respondent
Teacher questionnaire	81	.583	1
Student questionnaire	5,980	.25	1
Estimated annual burden		1,542	

OMB Desk Officer: Shannah Koss-McCallum.

Written comments and recommendations for the proposed information collections should be sent directly to the OMB Desk Officer designated above at the following address: Human Resources and Housing Branch, New Executive Office Building, room 3002, Washington, DC 20503.

Dated: May 7, 1990.

James M. Friedman,

Acting Deputy Assistant Secretary for Health (Planning and Evaluation).

[FR Doc. 90-11039 Filed 5-10-90; 8:45 am]

BILLING CODE 4160-17-M

Social Security Administration

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Social Security Administration publishes a list of information collection packages that have been submitted to the Office of Management and Budget (OMB) for clearance in compliance with Public Law 96-511, The Paperwork Reduction Act. The following clearance packages have been submitted to OMB since the last list was published in the **Federal Register** on May 4, 1990.

(Call Reports Clearance Officer on (301) 965-4149 for copies of package)

1. Claimant's Work Background—0960-0300—The information collected on form HA-4633 is used at a hearing on the issue of disability benefits by the Administrative Law Judge (ALJ) presiding. It provides a claimant's work history so that the ALJ can make a fully-informed determination regarding the claimant's disability. The respondents are individuals who have requested a hearing on their disability determination.

Number of Respondents: 99,377.

Frequency of Response: 1.

Average Burden Per Response: 15 minutes.

Estimated Annual Burden: 24,844 hours.

2. Application For Widow's or Widower's Insurance Benefits—0960-0004—The information collected on the form SSA-10 is used by the Social Security Administration to determine whether the claimant is eligible for widow's or widower's insurance benefits based on the account of a deceased spouse. The respondents are widows or widowers of deceased wage earners.

Number of Respondents: 640,000.

Frequency of Response: 1.

Average Burden Per Response: 15 minutes.

Estimated Annual Burden: 160,000 hours.

3. Letter to Employer Requesting Wage Information—0960–0138—The information collected on the form SSA–L4201 is used by the Social Security Administration to verify wages paid to a Supplemental Security Income (SSI) recipient/applicant and to determine eligibility for SSI payments. The respondents are employers of SSI recipients/applicants.

Number of Respondents: 133,000.

Frequency of Response: 1.

Average Burden Per Response: 5½ minutes.

Estimated Annual Burden: 12,192 hours.

OMB Desk Officer: Allison Herron.

Written comments and recommendations regarding these information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, DC 20503.

Dated: May 4, 1990.

Ron Compston,

Social Security Administration, Reports Clearance Officer.

[FR Doc. 90–10913 Filed 5–10–90; 8:45 am]

BILLING CODE 4190–11–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N–90–1917; FR–2606–N–71]

Federal Property Suitable as Facilities to Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized and underutilized Federal property determined by HUD to be suitable for possible use for facilities to assist the homeless.

EFFECTIVE DATE: May 11, 1990.

ADDRESSES: For further information, contact James Forsberg, Room 7262, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 755–6300; TDD number for the hearing- and speech-impaired (202) 755–5965. (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.), HUD is publishing this Notice to identify Federal buildings and real property that HUD has determined are suitable for use for facilities to assist the homeless. The properties were identified from information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property.

The Order requires HUD to take certain steps to implement section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), which sets out a process by which unutilized or underutilized Federal properties may be made available to the homeless. Under section 501(a), HUD is to collect information from Federal landholding agencies about such properties and then to determine, under criteria developed in consultation with the Department of Health and Human Services (HHS) and the Administrator of General Services (GSA), which of those properties are suitable for facilities to assist the homeless. The Order requires HUD to publish, on a weekly basis, a Notice in the **Federal Register** identifying the properties determined as suitable.

The properties identified in this Notice may ultimately be available for use by the homeless, but they are first subject to review by the landholding agencies pursuant to the court's Memorandum of December 14, 1988 and section 501(b) of the McKinney Act. Section 501(b) requires HUD to notify each Federal agency about any property of such agency that has been identified as suitable. Within 30 days from receipt of such notice from HUD, the agency must transmit to HUD: (1) its intention to declare the property excess to the agency's need or to make the property available on an interim basis for use as facilities to assist the homeless; or (2) a statement of the reasons that the property cannot be declared excess or made available on an interim basis for use as facilities to assist the homeless.

First, if the landholding agency decides that the property cannot be declared excess or made available to the homeless for use on an interim basis the property will no longer be available.

Second, if the landholding agency declares the property excess to the agency's need, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law and the December 12, 1988 Order and December 14, 1988 Memorandum, subject to screening for other Federal use.

Homeless assistance providers interested in any property identified as suitable in this Notice should send a written expression of interest to HHS, addressed to Judy Breitman, Division of Health Facilities Planning, U.S. Public Health Service, HHS, Room 17A–10, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit such written expressions of interest within 30 days from the date of this Notice. For complete details concerning the timing and processing of applications, the reader is encouraged to refer to HUD's **Federal Register** Notice on June 23, 1989 (54 FR 26421), as corrected on July 3, 1989 (54 FR 27975).

For more information regarding particular properties identified in this Notice (*i.e.*, acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: Corps of Engineers: Bob Swieconek, HQ–US Army Corps of Engineers, Attn: CERE–MN, 20 Massachusetts Avenue NW., Washington, DC 20415–1000; (202) 475–2133; U.S. Air Force: H.L. Lovejoy, Bolling AFB, HQ–USAF/LEER, Washington, DC 20332–5000; (202)–767–4191; GSA; James Folliard, Federal Property Resources Services, GSA, 18th and F Streets NW., Washington, DC 20405; (202) 535–7067; Dept. of Commerce: Jim McCombs, Chief, National Program Division, Room 1037, 14th St. and Constitution Ave. NW., Washington, DC 20237; (202) 377–3580. (These are not toll-free numbers.)

Dated: May 3, 1990.

Audrey E. Scott,

Deputy Assistant Secretary for Community Planning and Development.

Suitable Land (by State)

Alaska

Gibson Cove
1211 Gibson Cove Road
Kodiak, AK, Co: Kodiak Island
Landholding Agency: Commerce
Property Number: 279010002
Status: Excess
Comment: 7.44 acres; small rock peninsula; most recent use—windbreak for cove.

Texas

Parcel No. 227

Lake Texoma, James Clements Survey, A-1476
(See County), TX, Co: Grayson
Landholding Agency: COE
Property Number: 319011630
Status: Underutilized
Comment: 23 acres with 2 sewage lagoons; most recent use—low density recreation.

Suitable Buildings (by State)

Massachusetts

US VA Clinic
17 Court Street
Boston, MA, Co: Suffolk
Landholding Agency: GSA
Property Number: 549010056
Status: Unutilized
Comment: 81000 sq. ft.; 9 floors; steel and masonry bldg; most recent use—storage/respite for homeless; lease restriction expires 6/90.

Bldg. 5610
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010611
Status: Unutilized
Comment: 10423 sq. ft.; wood/concrete frame; 6-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.

Bldg. 5621
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010612
Status: Unutilized
Comment: 10423 sq. ft.; wood/concrete frame; 6-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.

Bldg. 5629
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010613
Status: Unutilized
Comment: 10423 sq. ft.; wood/concrete frame; 6-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.

Bldg. 5606
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010614
Status: Unutilized
Comment: 6949 sq. ft.; wood/concrete frame; 4-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.

Bldg. 5608
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010615
Status: Unutilized
Comment: 6949 sq. ft.; wood/concrete frame; 4-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.

Bldg. 5612
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010616
Status: Unutilized
Comment: 6949 sq. ft.; wood/concrete frame; 4-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.

Bldg. 5620
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010617
Status: Unutilized
Comment: 6949 sq. ft.; wood/concrete frame; 4-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.

Bldg. 5622
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010618
Status: Unutilized
Comment: 6949 sq. ft.; wood/concrete frame; 4-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.

Bldg. 5624
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010619
Status: Unutilized
Comment: 6949 sq. ft.; wood/concrete frame; 4-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.

Bldg. 5627
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010620
Status: Unutilized
Comment: 6949 sq. ft.; wood/concrete frame; 4-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.

Bldg. 5633
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010621
Status: Unutilized
Comment: 6949 sq. ft.; wood/concrete frame; 4-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.

Bldg. 5635
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010622
Status: Unutilized
Comment: 6949 sq. ft.; wood/concrete frame; 4-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.

Bldg. 5637
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010623
Status: Unutilized
Comment: 6949 sq. ft.; wood/concrete frame; 4-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.

Bldg. 5638
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010624
Status: Unutilized
Comment: 6949 sq. ft.; wood/concrete frame; 4-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.

Bldg. 5639
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010625
Status: Unutilized
Comment: 6949 sq. ft.; wood/concrete frame; 4 unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.

Bldg. 5605
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010626
Status: Unutilized
Comment: 5904 sq. ft.; wood/concrete frame; 4-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.

Bldg. 5609
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010627
Status: Unutilized
Comment: 5904 sq. ft.; wood/concrete frame; 4-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.

Bldg. 5625
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010628
Status: Unutilized
Comment: 5904 sq. ft.; wood/concrete frame; 4-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.

Bldg. 5636
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable

Landholding Agency: Air Force
Property Number: 189010629
Status: Unutilized
Comment: 5904 sq. ft.; wood/concrete frame; 4-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.

Bldg. 5640
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010630
Status: Unutilized
Comment: 5904 sq. ft.; wood/concrete frame; 4-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.

Bldg. 5642
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010631
Status: Unutilized
Comment: 5904 sq. ft.; wood/concrete frame; 4-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.

Bldg. 5611
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010632
Status: Unutilized
Comment: 3474 sq. ft.; wood/concrete frame; 2-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.

Bldg. 5613
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010633
Status: Unutilized
Comment: 3474 sq. ft.; wood/concrete frame; 2-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.

Bldg. 5614
Otis Air National Guard Family—Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010634
Status: Unutilized
Comment: 3474 sq. ft.; wood/concrete frame; 2-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.

Bldg. 5619
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010635
Status: Unutilized
Comment: 3474 sq. ft.; wood/concrete frame; 2-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.

Bldg. 5623
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010636
Status: Unutilized
Comment: 3474 sq. ft.; wood/concrete frame; 2-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.

Bldg. 5660
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010637
Status: Unutilized
Comment: 3474 sq. ft.; wood/concrete frame; 2-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.

Bldg. 5662
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010638
Status: Unutilized
Comment: 3474 sq. ft.; wood/concrete frame; 2-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.

Bldg. 5663
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010639
Status: Unutilized
Comment: 3474 sq. ft.; wood/concrete frame; 2-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.

Bldg. 5607
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010640
Status: Unutilized
Comment: 2952 sq. ft.; wood/concrete frame; 2-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.

Bldg. 5626
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010641
Status: Unutilized
Comment: 2952 sq. ft.; wood/concrete frame; 2-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.

Bldg. 5628
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010642
Status: Unutilized
Comment: 2952 sq. ft.; wood/concrete frame; 2-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.

Bldg. 5630
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010643
Status: Unutilized
Comment: 2952 sq. ft.; wood/concrete frame; 2-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.

Bldg. 5631
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010644
Status: Unutilized
Comment: 2952 sq. ft.; wood/concrete frame; 2-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.

Bldg. 5632
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010645
Status: Unutilized
Comment: 2952 sq. ft.; wood/concrete frame; 2-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.

Bldg. 5661
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010646
Status: Unutilized
Comment: 2952 sq. ft.; wood/concrete frame; 2-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.

Bldg. 5604
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010647
Status: Unutilized
Comment: 8856 sq. ft.; wood/concrete frame; 6-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.

Bldg. 5634
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010648
Status: Unutilized
Comment: 8856 sq. ft.; wood/concrete frame; 6-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.

Bldg. 5568
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010649
Status: Unutilized

Comment: 7367 sq. ft.; wood/concrete frame; 4-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.

Bldg. 5570
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010650
Status: Unutilized
Comment: 7367 sq. ft.; wood/concrete frame; 4-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.

Bldg. 5572
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010651
Status: Unutilized
Comment: 7367 sq. ft.; wood/concrete frame; 4-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.

Bldg. 5532
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010652
Status: Unutilized
Comment: 6204 sq. ft.; wood/concrete frame; 4-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.

Bldg. 5533
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010653
Status: Unutilized
Comment: 6204 sq. ft.; wood/concrete frame; 4-unit family housing lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.

Bldg. 5544
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010654
Status: Unutilized
Comment: 6204 sq. ft.; wood/concrete frame; 4-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.

Bldg. 5545
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010655
Status: Unutilized
Comment: 6204 sq. ft.; wood/concrete frame; 4-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.

Bldg. 5552
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010656
Status: Unutilized
Comment: 6204 sq. ft.; wood/concrete frame; 4-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.

Bldg. 5555
Otis Air National Guard Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010657
Status: Unutilized
Comment: 6204 sq. ft.; wood/concrete frame; 4-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.

Bldg. 5576
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010658
Status: Unutilized
Comment: 6204 sq. ft.; wood/concrete frame; 4-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.

Bldg. 5577
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010659
Status: Unutilized
Comment: 6204 sq. ft.; wood/concrete frame; 4-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.

Bldg. 5579
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010660
Status: Unutilized
Comment: 6204 sq. ft.; wood/concrete frame; 4-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.

Bldg. 5585
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010661
Status: Unutilized
Comment: 6204 sq. ft.; wood/concrete frame; 4-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.

Bldg. 5586
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010662
Status: Unutilized
Comment: 6204 sq. ft.; wood/concrete frame; 4-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.

Bldg. 5536
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010663
Status: Unutilized
Comment: 7839 sq. ft.; wood/concrete frame; 4-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.

Bldg. 5538
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010664
Status: Unutilized
Comment: 7839 sq. ft.; wood/concrete frame; 4-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.

Bldg. 5557
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010665
Status: Unutilized
Comment: 7839 sq. ft.; wood/concrete frame; 4-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.

Bldg. 5558
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010666
Status: Unutilized
Comment: 7839 sq. ft.; wood/concrete frame; 4-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.

Bldg. 5566
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010667
Status: Unutilized
Comment: 7839 sq. ft.; wood/concrete frame; 4-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.

Bldg. 5563
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010668
Status: Unutilized
Comment: 7839 sq. ft.; wood/concrete frame; 4-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.

Bldg. 5593
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010669
Status: Unutilized
Comment: 7839 sq. ft.; wood/concrete frame; 4-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.

Bldg. 5580
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010670
Status: Unutilized
Comment: 9216 sq. ft.; wood/concrete frame; 4-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.

Bldg. 5527
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010671
Status: Unutilized
Comment: 7377 sq. ft.; wood/concrete frame; 4-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.

Bldg. 5556
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010672
Status: Unutilized
Comment: 7366 sq. ft.; wood/concrete frame; 4-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.

Bldg. 5574
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010673
Status: Unutilized
Comment: 7366 sq. ft.; wood/concrete frame; 4-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.

Bldg. 5468
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010674
Status: Unutilized
Comment: 7324 sq. ft.; wood/concrete frame; 4-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.

Bldg. 5525
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010675
Status: Unutilized
Comment: 7324 sq. ft.; wood/concrete frame; 4-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.

Bldg. 5528
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010676
Status: Unutilized
Comment: 7324 sq. ft.; wood/concrete frame; 4-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.

Bldg. 5529
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010677
Status: Unutilized
Comment: 7324 sq. ft.; wood/concrete frame; 4-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.

Bldg. 5530
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010678
Status: Unutilized
Comment: 7324 sq. ft.; wood/concrete frame; 4-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.

Bldg. 5531
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010679
Status: Unutilized
Comment: 7324 sq. ft.; wood/concrete frame; 4-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.

Bldg. 5534
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010680
Status: Unutilized
Comment: 7324 sq. ft.; wood/concrete frame; 4-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.

Bldg. 5537
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010681
Status: Unutilized
Comment: 7324 sq. ft.; wood/concrete frame; 4-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.

Bldg. 5539
Otis Air National Guard Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010682
Status: Unutilized
Comment: 7324 sq. ft.; wood/concrete frame; 4-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.

Bldg. 5540
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010683
Status: Unutilized
Comment: 7324 sq. ft.; wood/concrete frame; 4-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.

Bldg. 5541
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010684
Status: Unutilized
Comment: 7324 sq. ft.; wood/concrete frame; 4-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.

Bldg. 5542
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010685
Status: Unutilized
Comment: 7324 sq. ft.; wood/concrete frame; 4-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.

Bldg. 5543
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010686
Status: Unutilized
Comment: 7324 sq. ft.; wood/concrete frame; 4-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.

Bldg. 5546
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010687
Status: Unutilized
Comment: 7324 sq. ft.; wood/concrete frame; 4-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.

Bldg. 5547
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010688
Status: Unutilized
Comment: 7324 sq. ft.; wood/concrete frame; 4-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.

Bldg. 5548
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010689
Status: Unutilized
Comment: 7324 sq. ft.; wood/concrete frame; 4-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.

Bldg. 5550
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable

Landholding Agency: Air Force
Property Number: 189010690
Status: Unutilized
Comment: 7324 sq. ft.; wood/concrete frame; 4-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.

Bldg. 5551
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010691
Status: Unutilized
Comment: 7324 sq. ft.; wood/concrete frame; 4-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.

Bldg. 5553
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010692
Status: Unutilized
Comment: 7324 sq. ft.; wood/concrete frame; 4-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.

Bldg. 5554
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010693
Status: Unutilized
Comment: 7324 sq. ft.; wood/concrete frame; 4-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.

Bldg. 5559
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010694
Status: Unutilized
Comment: 7324 sq. ft.; wood/concrete frame; 4-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.

Bldg. 5560
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010695
Status: Unutilized
Comment: 7324 sq. ft.; wood/concrete frame; 4-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.

Bldg. 5561
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010696
Status: Unutilized
Comment: 7324 sq. ft.; wood/concrete frame; 4-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.

Bldg. 5562
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010697
Status: Unutilized
Comment: 7324 sq. ft.; wood/concrete frame; 4-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.

Bldg. 5563
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010698
Status: Unutilized
Comment: 7324 sq. ft.; wood/concrete frame; 4-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.

Bldg. 5564
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010699
Status: Unutilized
Comment: 7324 sq. ft.; wood/concrete frame; 4-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.

Bldg. 5565
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010700
Status: Unutilized
Comment: 7324 sq. ft.; wood/concrete frame; 4-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.

Bldg. 5567
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010701
Status: Unutilized
Comment: 7324 sq. ft.; wood/concrete frame; 4-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.

Bldg. 5569
Otis Air National Guard Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010702
Status: Unutilized
Comment: 7324 sq. ft.; wood/concrete frame; 4-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.

Bldg. 5571
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010703
Status: Unutilized
Comment: 7324 sq. ft.; wood/concrete frame; 4-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.

Bldg. 5573
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010704
Status: Unutilized
Comment: 7324 sq. ft.; wood/concrete frame; 4-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.

Bldg. 5575
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010705
Status: Unutilized
Comment: 7324 sq. ft.; wood/concrete frame; 4 unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.

Bldg. 5578
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010706
Status: Unutilized
Comment: 7324 sq. ft.; wood/concrete frame; 4-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.

Bldg. 5581
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010707
Status: Unutilized
Comment: 7324 sq. ft.; wood/concrete frame; 4-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.

Bldg. 5582
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010708
Status: Unutilized
Comment: 7324 sq. ft.; wood/concrete frame; 4-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.

Bldg. 5584
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010709
Status: Unutilized
Comment: 7324 sq. ft.; wood/concrete frame; 4 unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.

Bldg. 5586
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010710
Status: Unutilized

Comment: 7324 sq. ft.; wood/concrete frame; 4-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.
Bldg. 5587
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010711
Status: Unutilized
Comment: 7324 sq. ft.; wood/concrete frame; 4-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.
Bldg. 5589
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010712
Status: Unutilized
Comment: 7324 sq. ft.; wood/concrete frame; 4-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.
Bldg. 5590
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010713
Status: Unutilized
Comment: 7324 sq. ft.; wood/concrete frame; 4-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.
Bldg. 5591
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010714
Status: Unutilized
Comment: 7324 sq. ft.; wood/concrete frame; 4-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.
Bldg. 5592
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010715
Status: Unutilized
Comment: 7324 sq. ft.; wood/concrete frame; 4-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.
Bldg. 5594
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010716
Status: Unutilized
Comment: 7324 sq. ft.; wood/concrete frame; 4-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.
Bldg. 5595
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010717
Status: Unutilized
Comment: 7324 sq. ft.; wood/concrete frame; 4-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.
Bldg. 5596
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010718
Status: Unutilized
Comment: 7324 sq. ft.; wood/concrete frame; 4-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.
Bldg. 5597
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010719
Status: Unutilized
Comment: 7324 sq. ft.; wood/concrete frame; 4-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.
Bldg. 5598
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010720
Status: Unutilized
Comment: 7324 sq. ft.; wood/concrete frame; 4-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.
Bldg. 5599
Otis Air National Guard—Family Housing
Cape Cod
(See County), MA, Co: Barnstable
Landholding Agency: Air Force
Property Number: 189010721
Status: Unutilized
Comment: 7324 sq. ft.; wood/concrete frame; 4-unit family housing; lacks functional sewage disposal system; possible asbestos; needs rehab; potential utilities.

Unsuitable Land (by State)

Virginia

Parcel #3
Atlantic Marine Center
439 West York Street
Norfolk, VA, Co: Norfolk
Landholding Agency: Commerce
Property Number: 279010001
Status: Underutilized
Reason: Floodway.

Unsuitable Buildings (by State)

Colorado

Sunset Canyon Field Station
(See County), CO, Co: Boulder
Location: 5 miles west of Wall Street on County Road 118.
Landholding Agency: Commerce
Property Number: 279010003
Status: Excess
Reason: Floodway.

Universe of Properties:
Total=116
Suitable=114
Suitable Buildings=112
Suitable Land=2
Unsuitable=2
Unsuitable Buildings=1
Unsuitable Land=1
Number of Resubmissions=0

[FR Doc. 90-10888 Filed 5-10-90; 8:45 am]
BILLING CODE 4210-29-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM-030-00-4333-10]

Public Access Closure on McGregor Range

AGENCY: Bureau of Land Management, Interior.

ACTION: General Closure of Public Access on McGregor Range.

SUMMARY: Notice is hereby given that McGregor Range is closed to use for nonmilitary purposes unless authorized in writing by the Bureau of Land Management. This closure is to provide for public safety and allow for military security of the Range.

MeCregor Range is located in southwestern Otero County, New Mexico and encompasses approximately 608,385 acres of public land withdrawn for military use and 71,083 acres of military-owned land. A map of McGregor Range is available for review at the BLM office of Las Cruces, New Mexico.

The only exceptions to this closure are access along State Road 506, and County Roads F052, F032, and E001 (north of 506).

Special requests for authorization to use the Range should be directed to the Area Manager, Caballo Resource Area.

EFFECTIVE DATE: May 11, 1990.

ADDRESSES: Bureau of Land Management, Caballo Resource Area, 1800 Marquess, Las Cruces, New Mexico, 88005.

FOR FURTHER INFORMATION CONTACT: P. Robert Alexander, Area Manager, Caballo Resources Area at (505) 525-8228.

Dated: May 3, 1990.

H. James Fox,
District Manager.

[FR Doc. 90-10978 Filed 5-10-90; 8:45 am]
BILLING CODE 4310-FB-M

[ES 970-00-4120-14-2410; ALES 41886]

Competitive Coal Lease Offering by Sealed Bid; Jefferson County, AL

AGENCY: Bureau of Land Management, Interior.

ACTION: Competitive coal lease offering by sealed bid.

SUMMARY: Notice is hereby given that as a result of an application filed by the River King Energy Company of Alabama, Inc. (ALES 41886) for coal resources in Jefferson County, Alabama, these coal resources will be offered for competitive leasing by sealed bid in accordance with the provisions of the Mineral Leasing Act of 1947 (61 Stat. 913, 30 U.S.C. 351–359), as amended. The applicant has satisfactorily demonstrated under the emergency leasing regulation, 43 CFR 3425.1–4, that if the coal deposits are not leased, they will be bypassed in the reasonably foreseeable future. The application is described as follows:

Gilmore Tract Profile

S2SE, section 26, T. 17 S., R. 6 W.,
Containing 80 acres.

The tract will be leased to the qualified bidder of the highest cash amount provided that the high bid for the tract equals or exceeds the fair market value (FMV) of the tract as determined by the officer after the sale. The Department has established a minimum bid of $100 per acre for the tract. The minimum bid is not to be considered as representing the amount for which the tract may actually be leased, since FMV will be determined in a separate postsale analysis. If identical high sealed bids are received, the tying high bidders will be asked to submit follow up sealed bids until a high bid is received. All tie breaking bids must be submitted within 15 minutes following the authorized officers' announcement at the sale that identical high bids have been received.

DATES: The sale will be held at 10 a.m., Tuesday, June 12, 1990, in the Eastern States Office Public Room. All bids must be submitted to the Bureau of Land Management, Eastern States Office, 350 South Pickett Street, Alexandria, Virginia 22304. The bids should be sent by certified mail, return receipt or be hand delivered on or before 4 p.m., June 11, 1990. Any bids received after 4 p.m. June 11, 1990, will not be considered.

SUPPLEMENTARY INFORMATION: The coal resources being offered are to be surface mined. The range quality of the coal within the proposed lease is as follows:

Proximate analysis (percent)	As received	Dry basis
Pratt Seam:		
Moisture	6.00	XXXX
Ash	8.50	8.60
BTU/lb	13,600	14,500
Sulfur	1.60	1.70
Nickel Plate:		
Moisture	5.50	XXXX
Ash	4.80	4.90
BTU/lb	13,800	14,400
Sulfur	0.70	0.73

Other detailed chemical analyses (if any) are available upon request from the Bureau of Land Management, Eastern States Office, Branch of Fluid and Solid Minerals at 350 South Pickett Street, Alexandria, Virginia 22304.

Rental and royalty: Any lease issued as a result of this offering will provide for payment of an annual rental of $3 per acre and a royalty payable to the United States of 12½% of the value of the coal shall be determined in accordance with 43 CFR 3485.2.

Notice of availability: Bidding instructions and bidder qualifications are included in the Detailed Statement and Lease Sale. Copies of the Statement and of the proposed coal lease is available at the Bureau of Land Management, Eastern States Office and the Jackson District Office. Case file documents are available for public inspection at the Eastern States Office.

FOR FURTHER INFORMATION CONTACT: Ms. Pearl F. Tillman, Bureau of Land Management, Eastern States Office, 350 South Pickett Street, Alexandria, Virginia 22304, (703) 461–1468.

Terry L. Plummer,

Acting State Director.

[FR Doc. 90–11035 Filed 5–10–90; 8:45 am]

BILLING CODE 4310-GJ-M

[AA-73135; 2920]

Realty Action; Federal Land Policy and Management Act Lease of Public Lands in the Municipality of Anchorage

May 3, 1990.

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Notice of realty action.

SUMMARY: This Notice of Realty Action involves the long-term lease of public lands by the Bureau of Land Management in Alaska. The lease is intended to authorize construction, operation and maintenance of a container storage and transfer facility adjacent to the Port of Anchorage.

The site has been examined and found suitable for leasing under the provisions of section 302 of the Federal Land Policy and Management Act (FLPMA). The general legal description for the subject land is as follows:

Seward Meridian, Alaska

Sec. 6, T. 13 N., R. 3 W.,
Tract "A".

Containing 9.87 acres.

A more detailed metes and bounds description will be provided at the time of lease issuance. The site will be leased on a non-competitive basis. The appraised rental on the site is $65,000 per year or $.15 per square foot.

The application will not be accepted for less than the appraised price per acre. In addition, the lessee shall reimburse the United States for reasonable administrative costs incurred by the United States in processing the lease and for monitoring construction, operation, maintenance and rehabilitation of the facilities authorized. The reimbursement of costs shall be in accordance with the provisions of 43 CFR 2920.6.

The application must include reference to this Notice and a complete description of the proposed facilities and services offered. Such development plan must be in sufficient detail to allow evaluation of the feasibility of the proposed land use impacts on the environment, public benefits from the land use and the approximate cost of the proposal. This can be accomplished by providing details of the proposed use and activities, e.g., a description of all facilities and access needs; a map of sufficient scale to be legible; a legal description of the proposed project location (metes and bounds and acreage); a schedule of facility construction; and any other information that may aid in evaluating the proposal. The applicant may be required to furnish evidence satisfactory to the Bureau that they have, or prior to construction will have, the technical and financial capacity to construct, operate, maintain and terminate the project for which authorization is requested.

For more details of application content, refer to 43 CFR 2920, copies of which are available at the Anchorage District Office. Also available is information on what minimum and maximum services are planned, terms and conditions that will apply to the lease, location maps, and evaluation criteria, et cetera.

For a period of 30 days from the date of publication of this Notice, interested parties may submit comments to the District Manager, Bureau of Land Management, 6881 Abbott Loop Road, Anchorage, Alaska 99507. Any adverse

comments will be evaluated by the District Manager, who may vacate or modify this Realty Action and issue a final determination. In the absence of any action by the District Manager, this Realty Action will become the final determination of the Bureau.

Richard J. Vernimen,

District Manager.

[FR Doc. 90-11052 Filed 5-10-90; 8:45 am]

BILLING CODE 4310-JA-M

[AZ-020-00-4212-13; A-23306-B]

Realty Action; Exchange of Public Lands, Maricopa, Pinal and Yavapai Counties, AZ

All or part of the following described sections containing federal lands are being considered for disposal by exchange pursuant to section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

Gila and Salt River Meridian, Arizona

T. 1 N., R. 3 W.,
Secs. 3 and 7.
T. 1 N., R. 4 W.,
Secs. 1, 11, 12, 13 and 14.
T. 1 N., R. 5 W.,
Sec. 27.
T. 2 N., R. 3 W.,
Secs. 4, 5, 8, 9, 14, 15, 17, 18, 19, 20, 21, 22, 26, 27, 28, 29, 33, 34 and 35.
T. 2 N., R. 4 W.,
Sec. 1.
T. 2 N., R. 5 W.,
Sec. 36.
T. 8 N., R. 5 W.,
Sec. 15.
T. 3 N., R. 4 W.,
Secs. 1, 11, 12, 13, 14, 24, 25 and 36.
T. 1 S., R. 2 W.,
Secs. 8, 9, 30, 31, 32 and 36.
T. 1 S., R. 3 W.,
Secs. 24, 25, 31 and 32.
T. 1 S., R. 4 W.,
Secs. 35 and 36.
T. 2 S., R. 1 W.,
Secs. 2, 11, 12, 25, 26, 27, 34 and 35.
T. 2 S., R. 2 W.,
Secs. 5, 6, 18, 28 and 33.
T. 2 S., R. 3 W.,
Secs. 5, 6, 7, 8, 17, 18 and 19.
T. 2 S., R. 4 W.,
Secs. 1, 11, 12, 13 and 14.
T. 3 S., R. 1 W.,
Secs. 1, 3, 4, 11, 12, 13, 14, 21, 22, 23, 24, 25, 26, 27, 28, 33, 34, 35 and 36.
T. 4 S., R. 1 E.,
Secs. 1, 3, 6, 7, 9, 10, 11, 12, 13, 34 and 35.
T. 5 S., R. 1 E.,
Secs. 2, 3, 10, 11, 13, 15, 22, 23, 24, 25, 27, 34, 35 and 36.
T. 6 S., R. 1 E.,
Secs. 2, 3, 10, 11, 12, 13, 14, 24, 25, 26, 35 and 36.
T. 7 S., R. 1 E.,
Secs. 1, 5 and 6.
T. 5 S., R. 2 E.,
Secs. 5, 6, 7, 8, 9, 19, 29, 30, 31, 32.
T. 6 S., R. 2 E.,
Secs. 5, 6, 7, 17, 18, 19, 20, 21, 28, 29, 30, 31, 32 and 33.
T. 7 S., R. 2 E.,
Secs. 4, 5 and 6.
T. 7 S., R. 3 E.,
Secs. 3, 4 and 5.

Comprising 71,221.08 acres, more or less.

Final determination on disposal will await completion of an environmental analysis.

In accordance with the regulations of 43 CFR 2201.1(b), publication of this notice will segregate the affected public lands from appropriation under the public land laws, including the mining laws, subject to valid existing rights, but not the mineral leasing laws or from exchange pursuant to the Federal Land Policy and Management Act of 1976.

The segregation of the above-described lands shall terminate upon issuance of a document conveying such lands or upon publication in the **Federal Register** of a notice of termination of the segregation or the expiration of two years from the date of publication, whichever occurs first.

For a period of forty-five (45) days, interested parties may submit comments to the District Manager, Phoenix District Office, 2015 West Deer Valley Road, Phoenix, Arizona 85027.

Dated: May 3, 1990.

Henri R. Bisson,

District Manager.

[FR Doc. 90-11026 Filed 5-10-90; 8:45 am]

BILLING CODE 4310-32-M

[AZ-020-00-4212-12; AZA 24496]

Realty Action: Exchange of Public Lands in Arizona

BLM proposes to exchange land in order to achieve more efficient management of the public land through consolidation of ownership.

Portions or all public lands within the following townships, ranges and sections are being considered for disposal by exchange pursuant to section 206 of the Federal Land Policy and Management Act of October 21, 1976, 43 U.S.C. 1716.

Gila and Salt River Meridian, Arizona

Maricopa County

T. 5 N., R. 3 E.,
Sec. 1.
T. 5 N., R. 4 E.,
Sec. 6.
T. 6 N., R. 3 E.,
Sec. 35.
T. 6 N., R. 4 E.,
Secs. 1, 11 and 12.

Containing 399.83 acres, more or less.

Pinal County

T. 4 S., R. 8 E.,
Sec. 13
T. 4 S., R. 9 E.,
Secs. 11, 26 and 27.
T. 5 S., R. 8 E.,
Sec. 34.
T. 5 S., R. 9 E.,
Sec. 8.
T. 6 S., R. 8 E.,
Secs. 25, 26 and 36.
T. 7 S. R. 4 E.,
Secs. 10, 15 and 21.
T. 7 S., R. 10 E.,
Secs. 5 to 8, incl., 14, 17 and 18.
T. 10 S., R. 7 E.,
Secs. 12, 13 and 24.
T. 10 S., R. 9 E.,
Secs. 17, 29, 30 and 31.

Containing 7,461.20 acres, more or less.

Pima County

T. 12 S., R. 11 E.,
Secs. 28 and 33.
T. 13 S., R. 11 E.,
Secs. 5 and 29.
T. 13 S., R. 12 E.,
Secs. 9, 28, 33 and 34.

Containing 746.85 acres, more or less.

Copies of the complete legal descriptions may be obtained from the Phoenix District Office, address shown below.

Final determination on disposal will await completion of an environmental analysis.

In accordance with the regulations of 43 CFR 2201.1(b), publication of this Notice will segregate the affected public lands from appropriation under the public land laws, and the mining laws, but not the mineral leasing laws or Geothermal Steam Act.

The segregation of the above-described lands shall terminate upon issuance of a document conveying such lands or upon publication in the **Federal Register** of a notice of termination of the segregation; or the expiration of two years from the date of publication, whichever occurs first.

For a period of forty-five (45) days, interested parties may submit comments to the District Manager, Phoenix District Office, 2015 West Deer Valley Road, Phoenix, Arizona 85027.

Dated: May 3, 1990.

Henri R. Bisson,

District Manager.

[FR Doc. 90-11032 Filed 5-10-90; 8:45 am]

BILLING CODE 4310-32-M

[NV-930-00-4212.11; N-50714]

Realty Action, Lease/Purchase for Recreation and Public Purposes; Clark County, NV; Correction

The Notice of Realty Action published in the **Federal Register** on March 16, 1990 (55 FR 10008; FR Doc 90-6109), is hereby corrected with respect to the legal description. The proper legal description is as follows:

Mount Diable Meridian, Nevada

T 20 S., R. 62 E.,
Sec. 11, NE¼.

Aggregating 160 acres.

The lease and/or patent, when issued, will contain the following reservations to the United States:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States, Act of August 30, 1890, 26 Stat. 391, 43 U.S.C. 945.

2. All minerals shall be reserved to the United States, together with the right to prospect for, mine and remove such deposits from the same under applicable law and such regulations as the Secretary of the Interior may prescribe.

and will be subject to:

1. An easement for streets, roads and public utilities in accordance with the transportation plan for the City of Las Vegas.

2. Those rights for access road purposes which have been granted to Nevada Dapartment of Transportation by Permit No. N-32235 under the Act of August 27, 1958.

3. An existing aerial telephone line belonging to Central Telephone Company.

All others terms and conditions of the Notice continue to apply. This Notice of Realty Action also supercedes the correction that was published in the April 16, 1990 **Federal Register** (55 FR 14155).

Dated: May 3, 1990.

Ben F. Collins,

District Manager, Las Vegas, NV

[FR Doc. 90-11051 Filed 5-10-90; 8:45 am]

BILLING CODE 4310-HC-M

Bureau of Reclamation

Resource Management Plan/ Environmental Assessment (RMP/EA) for Lands Within the Coachella Valley Canal Area; Riverside County, CA

AGENCY: Bureau of Reclamation.

ACTION: Notice of intent to prepare a resource management plan/ environmental assessment (RMP/EA) and notice of public involvement/ scoping meetings.

SUMMARY: The Bureau of Reclamation (Reclamation) proposes to develop a single RMP/EA for the Reclamation lands within the Coachella Valley Canal Area, Riverside County, California. The RMP/EA will meet the requirements and guidelines of Reclamation policy and the National Environmental Policy Act (NEPA). All of these lands are currently operated and managed by either the Coachella Valley Water District or Riverside County through contractual agreements with Reclamation. There are, at this time, no existing comprehensive management plans for this area. Reclamation has made a decision that a comprehensive RMP/EA for this area will be beneficial for the future management of these lands.

DATES: Public comments and participation are integral parts of the planning process. Two informal public involvement/scoping meetings are scheduled to assist the public in making their wishes known. Both meetings are scheduled to be held from 7 p.m. to 8:45 p.m. The meeting dates and locations are listed below:

Wednesday, May 30, 1990; Jerry Rummonds Memorial Building; Corner of Olive and Church Streets; Thermal, California.

Thursday, May 31, 1990; Community room—Indio Public Library; 200 Civic Center Mall; Indio, California.

Written comments on the anticipated issues, planning criteria, and alternatives should be sent to the Regional Director, Bureau of Reclamation, Lower Colorado Regional Office, Attention: LC-423, P.O. Box 427, Boulder City, Nevada 89005.

In order to be considered in the scoping process, comments must be received prior to the close of business on June 22, 1990.

FOR FURTHER INFORMATION CONTACT: Richard Strahan, RMP/EA Team Leader (LC-423), Bureau of Reclamation, Lower Colorado Regional Office, P.O. Box 427, Boulder City, Nevada 89005, (702) 293-8428.

SUPPLEMENTARY INFORMATION:

1. Geographic Area Covered by the RMP/EA

The Coachella Valley Canal Area, Riverside County, California, that is being covered by this plan is comprised of approximately 4500 acres along the Coachella Canal and its associated facilities and structures. All of these lands lie within an area generally bounded by Indio, California, to the north and the Salton Sea to the south. A copy of a map depicting the involved area is on file for public inspection in Reclamation's Lower Colorado Regional Office, Lands Branch, Boulder City, Nevada 89005.

2. Disciplines Represented on the Planning Team

The RMP/EA team will be comprised of the following disciplines: Team Leader, Denver Office Team Leader, Public Affairs Officer, Biologist, Social Scientist, Economist, Cultural Resource Specialist, Reports Writer, NEPA Compliance Specialist, Land Management Specialist, Outdoor Recreation Planner, Soil Scientist/ Geologist/Hydrologist, Realty Specialist.

3. Public Participation

Public comment is currently solicited in regards to the anticipated issues and uses, preliminary planning criteria, and alternatives. Two informal public involvement/scoping meetings to address these items are scheduled for May 30 and 31, 1990. (See above for locations and times.)

The public scoping period will run from May 14, 1990 through June 22, 1990; all written comments must be received prior to the close of business on June 22, 1990, to be considered in the scoping process.

Persons interested in participating in the planning process should submit their name and address for inclusion on the Coachella Valley Canal Area RMP/EA mailing list to RMP/EA Team Leader (address shown above).

During the course of the public involvement/scoping meetings, known preliminary alternatives, issues, and planning criteria will be identified. Prior to the two scheduled public involvement/scoping meetings, there will also be a document prepared called the Coachella Valley Canal Area RMP/ EA Scoping Report that will outline Reclamation's planning action, objectives and description of the planning process, anticipated issues, preliminary planning criteria, preliminary alternatives, and other informational elements of interest to the public. Interested parties may obtain a copy of this document at either of the public involvement/scoping meetings or by requesting a copy from the RMP/EA Team Leader identified above.

Informal public comments and input are encouraged throughout the development of this RMP/EA. The next formal public comments period will be offered with the publication of the Draft RMP/EA.

Dated: May 7, 1990.

Stephen V. Magnussen,

Acting Regional Director

[FR Doc. 90-11031 Filed 5-10-90; 8:45 am]

BILLING CODE 4310-09-M

INTERSTATE COMMERCE COMMISSION

Agricultural Cooperative; Notice to the Commission of Intent To Perform Interstate Transportation for Certain Nonmembers

May 8, 1990.

The following Notices were filed in accordance with section 10526 (a)(5) of the Interstate Commerce Act. These rules provide that agricultural cooperatives intending to perform nonmember, nonexempt, interstate transportation must file the Notice, Form BOP 102, with the Commission within 30 days of its annual meetings each year. Any subsequent change concerning officers, directors, and location of transportation records shall require the filing of a supplemental Notice within 30 days of such change.

The name and address of the agricultural cooperative (1) and (2), the location of the records (3), and the name and address of the person to whom inquiries and correspondence should be addressed (4), and published here for interested persons. Submisson of information which could have bearing upon the propriety of a filing should be directed to the Commission's Office of Compliance and Consumer Assistance, Washington, DC 20423. The Notices are in a central file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, DC.

(1) Northwest Agricultural Cooperative Association, Inc. (N.A.C.A., Inc.).
(2) P.O. Box 1, Ontario, OR 97914.
(3) 920 S.E. 9th Avenue, Ontario, OR 97914.
(4) Jerry Ready, P.O. Box 1, Ontario, OR 97914.

Noreta R. McGee,

Secretary

[FR Doc 90-11067 Filed 5-10-90; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 31657]

CSX Transportation, Inc.; Trackage Rights Exemption

Burlington Northern Railroad Company (BN) has agreed to grant overhead trackage rights to CSX Transportation, Inc. (CSXT), between Atmore, AL, near milepost R-863.4, and Hybart, AL, near milepost R-792.4, a distance of approximately 71 miles. The transaction also involves the construction of a connection between BN and CSXT in the northeast quadrant of the BN-CSXT junction at Atmore.[1] CSXT expects to exercise the trackage rights immediately after construction of the connection is completed.

This notice is filed under 49 CFR 1180.2(d)(7). Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction. Pleadings must be filed with the Commission and served on: Charles M. Rosenberger, CSX Transportation, Inc., 500 Water Street, Jacksonville, FL 32202.

As a condition to the use of this exemption, any employees affected by the trackage rights will be protected pursuant to *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

Dated: May 4, 1990.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 90-11068 Filed 5-10-90; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importation of Controlled Substances; Application

Pursuant to section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(h)), the Attorney General shall, prior to issuing a registration under this section to a bulk manufacturer of a controlled substance in Schedule I or II and prior to issuing a regulation under section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with section 1311.42 of title 21, Code of Federal Regulations (CFR), notice is hereby given that on February 16, 1990, Stepan Chemical Company, Natural Products Department, Maywood, New Jersey 07607, made application to the Drug Enforcement Administration to be registered as an importer of coca leaves (9040), a basic class of controlled substance in Schedule II.

Any manufacturer holding, or applying for, registration as a bulk manufacturer of this basic class of controlled substance may file written comments on or objections to the application described above and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than (30 days from publication).

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1311.42 (b), (c), (d), (e) and (f). As noted in a previous notice at 40 FR 43745-46 (September 23, 1975), all applicants for registration to import a basic class of any controlled substance in Schedule I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator of the Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1311.42 (a), (b), (c), (d), (e) and (f) are satisfied.

Dated: April 24, 1990.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 90-10979 Filed 5-10-90; 8:45 am]

BILLING CODE 4410-09-M

Federal Bureau of Investigation

Meeting; Advisory Policy Board, National Crime Information Center

The Advisory Policy Board of the National Crime Information Center (NCIC) will meet on June 6-7, 1990, at the Old Colony Ramada Inn, 625 First Street, Alexandria, Virginia 22314.

The major topics to be discussed will include: Technical and operational specifications for certain concepts proposed in the NCIC 2000 Study, certain other technical and operational

[1] The Commission will assume jurisdiction over construction projects only in cases where the proposal involves, for example, a change in service to shippers, expansion into new territory; or a change in existing competitive situations. *See*, generally *Denver & R.G W.R. Co.—Ft. Proj.—Relocation Over BN* 4 I.C.C.2d 95 (1987). It appears that the construction of railroad lines involved here, which is to facilitate CSXT's use of BN's line, is not subject to the Commission's jurisdiction under these standards

alterations to existing files, implementation proposals for Federal legislation on identification of felon firearm's purchasers, certain topics relating to automation enhancements to the Identification Division, a proposal for identification of violent criminals, and topics relating to the security of the NCIC System.

The meeting will be open to the public with approximately 25 seats available on a first-come, first-served basis. Any member of the public may file a written statement with the Advisory Policy Board before or after the meeting. Anyone wishing to address a session of the meeting must notify the Committee Management Liaison Officer, Mr. William A. Bayse, Federal Bureau of Investigation, at least 24 hours prior to the start of the session. The notification may be made by mail, telegram, cable, or hand-delivered note, and must contain the name, corporate designation, consumer affiliation, or Government designation, of the requestor. The notification must also provide a capsulized version of the statement and an outline of the material to be presented. A person will be allowed not more than 15 minutes for such presentation, except with the special approval of the Chairman of the Board.

Inquiries may be addressed to Mr. William A. Bayse, Committee Management Liaison Officer, Technical Services Division, Federal Bureau of Investigation, Washington, DC 20535, telephone number (202) 324-5350.

Dated: May, 1990.

William S. Sessions,

Director.

[FR Doc. 90-10977 Filed 5-10-90; 8:45 am]

BILLING CODE 4410-02-M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under title II, chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 21, 1990.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 21, 1990.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street NW., Washington, DC 20213.

Signed at Washington, DC this 30th day of April 1990.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers/firm—	Location	Date received	Date of petition	Petition No.	Articles produced
A.O. Smith-Electrical Motors Div. (IBEW)	Mt. Sterling, KY	4/30/90	4/05/90	24,326	Electrical Motors.
Anchor Hocking Packing Co. (glassmolders & potters).	Glassboro, NJ	4/30/90	4/19/90	24,327	Caps.
Auburn Technology, Inc. (USW)	Auburn, NY	4/30/90	4/17/90	24,328	Diesel Engines.
B&V Coats (ILGWU)	Newark, NJ	4/30/90	4/26/90	24,329	Ladies' Coats.
Big Yank Corp. (ACTWU)	Hattiesburg, MS	4/30/90	4/10/90	24,330	Jeans.
Big Yank Corp. (ACTWU)	West Point, MS	4/30/90	4/10/90	24,331	Jeans.
Big Yank Corp. (ACTWU)	Tyrone, PA	4/30/90	4/10/90	24,332	Jeans.
CMI-Smithfield (workers)	Southfield, MI	4/30/90	4/18/90	24,333	Engine Parts.
Chamberlain Group, Inc. (workers)	Hot Spring, AR	4/30/90	4/19/90	24,334	Storm Doors.
Chamberlain Group, Inc. (workers)	Malvern, AR	4/30/90	4/19/90	24,335	Storm Doors.
Chamberlain Group, Inc. (workers)	Nogales, AZ	4/30/90	4/19/90	24,336	Door Openers.
Cinch Connectors (workers)	Pocahontas, AR	4/30/90	4/19/90	24,337	Connecting Devices.
Eleni Fashions, Inc. (company)	Newark, NJ	4/30/90	4/06/90	24,338	Ladies' Coats.
Fashionland, Inc. (ILGWU)	Jersey City, NJ	4/30/90	4/12/90	24,339	Childrens' Dresses.
Fashionland Production Ltd. (ILGWU)	Jersey City, NJ	4/30/90	4/12/90	24,340	Childrens' Dresses.
Ferro Corp. (workers)	Huron, OH	4/30/90	4/16/90	24,341	Colorants for Thermoplastics.
French Oil Mill Machinery Co., Inc. (workers)	Piqua, OH	4/30/90	4/13/90	24,342	Industrial Machinery.
Friskies Pet Care (workers)	Hillsboro, OR	4/30/90	4/18/90	24,343	Pet Food.
H. Korenstein (ILGWI)	Newark, NJ	4/30/90	4/18/90	24,344	Childrens' Dresses.
Hill Top Knitting (workers)	Maspeth Queens, NY	4/30/90	4/19/90	24,345	Mens' & Womens' Sweaters.
Lamp Specialties (workers)	Irvington, NJ	4/30/90	4/07/90	24,346	Lamp Parts.
Marathon Electric Mfg. Corp. (IBEW)	Wausau, WI	4/30/90	4/16/90	24,347	Electric Motors & Generators.
Pacific Brands Footwear (UFCW)	Fenton, MO	4/30/90	4/18/90	24,348	Ladies' Shoes.
Prince Gardner, Inc. (ACTWU)	Marked Tree, AR	4/30/90	4/23/90	24,349	Wallets.
Rhone-Poulenc, Inc. (IUE)	Portland, OR	4/30/90	4/20/90	24,350	Herbicides.
STC Telecorp., Inc. (UIW)	Elizabeth, NJ	4/30/90	4/10/90	24,351	Stereo Equipment.
Sharlyn Fashions, Inc. (ILGWU)	E. Newark, NJ	4/30/90	4/12/90	24,352	Childrens' Dresses.
Smith & Nephew Perry (company)	Carrollton, OH	4/30/90	4/06/90	24,353	Medical Gloves.
Sparkle Sportswear (ULGW)	Rahway, NJ	4/30/90	4/09/90	24,354	Sportswear.
Superior Production Logging, Inc. (company)	Snyder, TX	4/30/90	4/13/90	24,355	Oil & Gas.
Tedmar, Inc. (ILGWU)	Newark, NJ	4/30/90	4/18/90	24,356	Rainwear.
United Technologies Automotive (AIW)	Union City, IN	4/30/90	4/17/90	24,357	Auto Trim.
Vandel Services, Inc. (ILGWU)	E. Newark, NJ	4/30/90	4/18/90	24,358	Sportswear.

APPENDIX—Continued

Petitioner: Union/workers/firm—	Location	Date received	Date of petition	Petition No.	Articles produced
Vulcan Electric (workers)	Kezar Falls, ME	4/30/90	4/12/90	24,359	Industrial Heaters.

[FR Doc. 90-11071 Filed 5-10-90; 8:45 am]
BILLING CODE 4510-30-M

[TA-W-23, 925]

Blackstone Corp., Jamestown, NY; Notice of Affirmative Determination Regarding Application for Reconsideration

By a letter dated April 23, 1990, the company requested administrative reconsideration of the Department of Labor's Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance for workers and former workers of Blackstone Corporation, Jamestown, New York. The negative determination was issued on April 19, 1990 and will soon be published in the **Federal Register.**

The company stated that worker separations and production declined in 1989 and 1990 because of company imports resulting from a transfer of production to Canada.

Conclusion

After careful review of the application, I conclude that the claims are of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC, this 2nd day of May 1990.

Robert O. Deslongchamps,

Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 90-11072 Filed 5-10-90; 8:45 am]
BILLING CODE 4510-30-M

[TA-W-22, 873]

Unocal Pipeline Co., Illinois District, Olney, Illinois; Notice of Affirmative Determination Regarding Application for Reconsideration

On June 21, 1989 the Department denied trade adjustment assistance to workers and former workers of the Unocal Pipeline Company, Illinois District, Olney, Illinois. The denial notice was published in the **Federal Register** on July 19, 1989 (54 FR 30290).

On April 6, 1990 the U.S. Court of International Trade, in *Former Employees of Unocal Pipeline Company v. Secretary of Labor* (USCIT 89-07-00432) dismissed a judicial review request in order that the Department may reconsider its denial of adjustment assistance for workers of Unocal Pipeline Company, Illinois District, Olney, Illinois. The record lacks sufficient information on the buyers and suppliers of crude oil for the Unocal Pipeline Company.

Conclusion

After careful review of the application, I conclude that the claims are of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC, this 26th day of April 1990.

Stephen A. Wandner,

Deputy Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 90-11073 Filed 5-10-90; 8:45 am]
BILLING CODE 4310-30-M

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register,** or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of

submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue NW., Room S-3014, Washington, DC 20210.

Withdrawn General Wage Determination Decision

This is to advise all interested parties that the Department of Labor is removing, from the date of this notice, General Wage Determination No. AL90-30 dated January 5, 1990.

It is removed because the counties covered by this highway wage rate schedule are incorporated in other highway wage rate schedules.

Modifications to General Wage Determination Decisions

The numbers of the decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume, State, and page number(s). Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

Alabama:
- AL90-23 (Jan. 5, 1990) ..... p. 45, p. 46.
- AL90-24 (Jan. 5, 1990) ..... p. 47, p. 48.
- AL90-25 (Jan. 5, 1990) ..... p. 49, p. 50.
- AL90-26 (Jan. 5, 1990) ..... p. 51, p. 52.
- AL90-28 (Jan. 5, 1990) ..... p. 55, p. 56.
- AL90-29 (Jan. 5, 1990) ..... p. 57, p. 58.

Maryland, MD90-15 (Jan. 5, 1990). p. 481, p. 482.

New York:
- NY90-3 (Jan. 5, 1990)..... p. 759, pp. 760-761, 767.
- NY90-14 (Jan. 5, 1990)..... p. 871, pp. 872-874.

Virginia, VA90-51 (Jan. 5, 1990). p. 1333, p. 1334.

Volume II

Iowa:
- IA90-2 (Jan. 5, 1990) ..... p. 23, p. 24.
- IA90-4 (Jan. 5, 1990) ..... p. 33, p. 34.
- IA90-5 (Jan. 5, 1990) ..... p. 37, p. 39.

Illinois:
- IL90-8 (Jan. 5, 1990) ..... p. 135, p. 137.
- IL90-11 (Jan. 5, 1990)..... p. 153, p. 155.
- IL90-13 (Jan. 5, 1990)..... p. 173, p. 175.

Michigan:
- MI90-2 (Jan. 5, 1990)..... p. 441, p. 447.
- MI90-4 (Jan. 5, 1990)..... p. 471, p. 474.

Nebraska, NE90-1 (Jan. 5, 1990). p. 717, p. 718.

Ohio, OH90-1 (Jan. 5, 1990). p. 777, pp. 782-789.

Texas:
- TX90-3 (Jan. 5, 1990)..... p. 987, p. 988.
- TX90-9 (Jan. 5, 1990)..... p. 1007, p. 1008.

Volume III

California, CA90-1 (Jan. 5, 1990). p. 31, pp. 40b-40d.

Wyoming, WY90-2 (Jan. 5, 1990). p. 443, pp. 444-447.

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country. Subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783-3238.

When ordering subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the three separate volumes, arranged by State. Subscriptions include an annual edition (issued on or about January 1) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC this 4th day of May, 1990.

Alan L. Moss,

Director, Division of Wage Determinations.

[FR Doc. 90-10895 Filed 5-10-90; 8:45 am]

BILLING CODE 4510-27-M

Mine Safety and Health Administration

[Docket No. M-90-64-C]

Poor Boy Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Poor Boy Coal Company, Route 1, Box 297, Gray, Kentucky 40734 has filed a petition to modify the application of 30 CFR 75.313 (methane monitor) ot its No. 2 mine (I.D. No. 15-16841) located in Knox County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that a methane monitor be installed on electric face cutting equipment, continuous mining machines, longwall face equipment and loading machines. The monitor is required to be properly maintained and frequently tested.

2. As an alternate method, petitioner proposes to use handheld continuous oxygen and methane monitors instead of methane monitors on three-wheel tractors as outlined in the petition.

3. In support of this request, petitioner states that:

(a) No methane has been detected in the mine;

(b) Each three-wheel tractor would be equipped with a handheld continuous monitoring methane and oxygen detector and all persons would be trained in the use of the detector;

(c) Prior to allowing the coal loading tractor in the face area, a gas test would be performed to determine the methane concentration in the atmosphere. When the elapsed time between trips does not exceed 20 minutes, the air quality would be monitored continuously after each trip. This would provide continuous monitoring of the mine atmosphere for methane to assure the detection of any methane buildup between trips; and

(d) If one percent methane is detected, the operator would manually deenergize the battery tractor immediately. Production would cease and would not resume until the methane level is lower than one percent.

4. Peititoner states that the proposed alternate method will provide the same degree of safety for the miners affected as that provided by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before June 11, 1990. Copies of the petition are available for inspection at that address.

Dated: May 2, 1990.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 90-/11074 Filed 5-10-90: 8:45 am]

BILLING CODE 4510-43-M

Occupational Safety and Health Administration

Iowa State Standards; Notice of Approval

1. *Background.* Part 1953 of title 29, Code of Federal Regulations prescribes procedures under section 18 of the

Occupational Safety and Health Act of 1970 (29 U.S.C. 667; hereinafter called the Act) by which the Regional Administrators for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State Plan which has been approved in accordance with section 18(c) of the Act and 29 CFR part 1902. On July 20, 1973, notice was published in the **Federal Register** (38 FR 19368) of the approval of the Iowa Plan and the adoption of subpart J of part 1952 containing the decision. Iowa was granted final approval under section 18(e) of the Act on July 2, 1985.

The Iowa Plan provides for the adoption of Federal standards (by reference after comments and public hearing). By letter of November 30, 1989, from Walter H. Johnson, Deputy Labor Commissioner, to Alonzo L. Griffin, Area Director, and incorporated as part of the Plan, the State submitted State standards comparable to: Air Contaminants; Guide and Bibliography to Final Rule, 29 CFR 1910.1000, as published in the **Federal Register** (54 FR 12792, dated March 28, 1989). This standard, which is contained in chapter 88 of the Code of Iowa (1983), was published as a Notice of Intended Action in the Iowa Administrative Bulletin on June 14, 1989, as ARC 9931. In compliance with Iowa Code section 88.5(1)"b", a public hearing was scheduled for July 11, 1989. No comments were received. This resolution was adopted by the Division of Labor Services on August 18, 1989, pursuant to chapter 17a, Iowa Code. The standard was effective October 11, 1989, and notice of its adoption was published by the State on September 6, 1989.

The State also submitted State standards comparable to: Crane or Derrick Suspended Personnel Platforms (Redesignation) 29 CFR 1926.550, as published in the **Federal Register** (54 FR 15405, dated April 18, 1989). This standard, which is contained in chapter 88 of the Code of Iowa (1983), was published as a Notice of Intended Action in the Iowa Administrative Bulletin on June 28, 1989, as ARC 9980. In compliance with Iowa Code section 88.5(1)"b", a public hearing was scheduled for July 26, 1989. No comments were received. This resolution was adopted by the Division of Labor Services on August 18, 1989, pursuant to chapter 17a, Iowa Code. The standard on August 18, 1989, pursuant to chapter 17a, Iowa Code. The standard was effective October 11, 1989, and notice of its adoption was published by the State on September 6, 1989.

The State also submitted State standards comparable to: Underground Construction; Final Rule, 29 CFR 1926.800, as published in the **Federal Register** (54 FR 23850, dated June 2, 1989). This standard, which is contained in chapter 88 of the Code of Iowa (1983), was published as a Notice of Intended Action in the Iowa Administrative Bulletin on June 14, 1989, as ARC 9930. In compliance with Iowa Code section 88.5(1)"b", a public hearing was scheduled for July 11, 1989. No comments were received. This resolution was adopted by the Division of Labor Services on August 18, 1989, pursuant to chapter 17a, Iowa Code. The standard was effective October 11, 1989, and notice of its adoption was published by the State on September 6, 1989.

The State also submitted State standards comparable to: Air Contaminants; corrections, 29 CFR 1910.1000, as published in the **Federal Register** (54 FR 28059, dated July 5, 1989). This standard, which is contained in chapter 88 of the Code of Iowa (1983), was published as a Notice of Intended Action in the Iowa Administrative Bulletin on September 6, 1989, as ARC 189A. In compliance with Iowa Code section 88.5(1)"b", a public hearing was scheduled for September 28, 1989. No comments were received. This resolution was adopted by the Division of Labor Services on October 26, 1989, pursuant to chapter 17a, Iowa Code. The standard was effective December 20, 1989, and notice of its adoption was published by the State on November 15, 1989.

The State also submitted State standards comparable to: Occupational Exposure to Lead; Statement of Reasons; Final Rule, 29 CFR 1910.1025, as published in the **Federal Register** (54 FR 29274, dated July 11, 1989). This standard, which is contained in chapter 88 of the Code of Iowa (1983), was published as a Notice of Intended Action in the Iowa Administrative Bulletin on September 6, 1989, as ARC 189A. In compliance with Iowa Code section 88.5(1)"b", a public hearing was scheduled for September 28, 1989. No comments were received. This resolution was adopted by the Division of Labor Services on October 26, 1989, pursuant to chapter 17a, Iowa Code. The standard was effective December 20, 1989, and notice of its adoption was published by the State on November 15, 1989.

The State also submitted State standards comparable to: Occupational Exposure to Formaldehyde; Final Rule, corrections and technical amendments, 29 CFR 1910.1048, as published in the **Federal Register** (54 FR 29545, dated July 13, 1989). This standard, which is contained in Chapter 88 of the Code of Iowa (1983), was published as a Notice of Intended Action in the Iowa Administrative Bulletin on September 6, 1989, as ARC 189A. In compliance with Iowa Code section 88.5(1)"b", a public hearing was scheduled for September 28, 1989. No comments were received. This resolution was adopted by the Division of Labor Services on October 26, 1989, pursuant to Chapter 17a, Iowa Code. The standard was effective December 20, 1989, and notice of its adoption was published by the State on November 15, 1989.

The State also submitted State standards comparable to: Occupational Exposure to Asbestos, Tremolite, Anthophyllite, and Actinolite; Extension of Partial Stay and Amendment of Final Rule, 29 CFR 1910.1001, as published in the **Federal Register** (54 FR 30704, dated July 21, 1989). This standard, which is contained in Chapter 88 of the Code of Iowa (1983), was published as a Notice of Intended Action in the Iowa Administrative Bulletin on September 6, 1989, as ARC 189A. In compliance with Iowa Code section 88.5(1)"b", a public hearing was scheduled for September 28, 1989. No comments were received. This resolution was adopted by the Division of Labor Services on October 26, 1989, pursuant to Chapter 17a, Iowa Code. The standard was effective December 20, 1989, and notice of its adoption was published by the State on November 15, 1989.

The State also submitted State standards comparable to: Occupational Exposure to Asbestos, Tremolite, Anthophyllite, and Actinolite; Extension of Partial Stay and Amendment of Final Rule, 29 CFR 1910.1001, as published in the **Federal Register** (54 FR 30705, dated July 21, 1989). This standard, which is contained in Chapter 88 of the Code of Iowa (1983), was published as a Notice of Intended Action in the Iowa Administrative Bulletin on September 6, 1989, as ARC 188A. In compliance with Iowa Code section 88.5(1)"b", a public hearing was scheduled for September 28, 1989. No comments were received. This resolution was adopted by the Division of Labor Services on October 26, 1989, pursuant to Chapter 17a, Iowa Code. The standard was effective December 20, 1989, and notice of its adoption was published by the State on November 15, 1989.

The State also submitted State standards comparable to: Powered Platforms for Building Maintenance; Final Rule, 29 CFR 1910.66, as published in the **Federal Register** (54 FR 31456, dated July 28, 1989). This standard, which is contained in Chapter 88 of the Code of Iowa (1983), was published as a Notice of Intended Action in the Iowa Administrative Bulletin on September 6, 1989, as ARC 189A. In compliance with Iowa Code section 88.5(1)"b", a public hearing was scheduled for September 28, 1989. No comments were received. This resolution was adopted by the Division of Labor Services on October 26, 1989, pursuant to Chapter 17a, Iowa Code. The standard was effective December 20, 1989, and notice of its adoption was published by the State on November 15, 1989.

The State also submitted State standards comparable to: Occupational Exposure to Formaldehyde; correction, 29 CFR 1910.1048, as published in the **Federal Register** (54 FR 31765, dated August 1, 1989). This standard, which is contained in Chapter 88 of the Code of Iowa (1983), was published as a Notice of Intended Action in the Iowa Administrative Bulletin on September 6, 1989, as ARC 189A. In compliance with Iowa Code section 88.5(1)"b", a public hearing was scheduled for September 28, 1989. No comments were received. This resolution was adopted by the Division of Labor Services on October 26, 1989, pursuant to Chapter 17a, Iowa Code. The standard was effective December 20, 1989, and notice of its adoption was published by the State on November 15, 1989.

2. *Decision.* Having reviewed the State submission in comparision with the Federal standards, it has been determined that the State standards are identical to the comparable Federal standards and should therefore be approved.

3. *Location of Supplement for Inspection and Copying.* A copy of the standard supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Directorate of Federal/State Operations, Office of State Programs, Room N3700, 200 Constitution Avenue NW., Washington, DC 20210; Office of the Regional Administrator, Occupational Safety and Health Administration, 406 Federal Office Building, 911 Walnut Street, Kansas City, Missouri 64106; and Division of Labor Services, 1000 East Grand Avenue, Des Moines, Iowa 50319.

4. *Public Participation.* Under 29 CFR 1953.2(c) of this chapter, the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Iowa State Plan as a proposed change and for making the Regional Administrator's approval effective upon publication for the following reasons:

1. The standards are identical to the comparable Federal standards and are therefore deemed to be at least as effective.

2. The standards were adopted in accordance with the procedural requirements of State law and further public participation and notice would be unnecessary.

This decision is effective May 11, 1990.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 [29 U.S.C. 667])

Signed at Kansas City, Missouri, this 11th day of April 1990.

Thomas H. Seymour,

Acting Regional Administrator.

[FR Doc. 90-11075 Filed 5-10-90; 8:45 am]

BILLING CODE 4510-26-M

Wyoming State Standards; Notice of Approval

1. Background

Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4), will review and approve standards promulgated pursuant to a State Plan which has been approved in accordance with section 18(c) of the Act and 29 CFR part 1902. On May 3, 1974, notice was published in the **Federal Register** (39 FR 15394) of the approval of the Wyoming Plan and adoption of subpart BB to part 1952 containing the decision.

The Plan provides for the adoption of Federal Standards as State Standards by:

1. Advisory Committee coordination.
2. Publication in newspapers of general/major circulation with a 45-day waiting period for public comment and hearings.
3. Adoption by the Wyoming Health and Safety Commission.
4. Review and approval by the Governor.
5. Filing with the Secretary of State and designation of an effective date

OSHA regulations (29 CFR parts 1953, 22 and 23) require that States respond to the adoption of new or revised permanent Federal standards by State promulgation of comparable standards within six months of OSHA publication in the **Federal Register**, and within 30 days for emergency temporary standards. Although adopted State Standards or revisions to Standards must be submitted for OSHA review and approval under procedures set forth in part 1953, they are enforceable by the state prior to federal review and approval.

By letter dated September 25, 1989 from Stephan R. Foster, Assistant Administrator, Wyoming Occupational Health and Safety Division, to Byron R. Chadwick, OSHA Regional Administrator, the State submitted rules and regulations in response to the following Federal OSHA Construction Standards (29 CFR 1926.550: Cranes and Derricks, 53 FR 29116, 8-2-88; 29 CFR 1926.700-706: Concrete and Masonry Construction Safety Standards, 53 FR 22612, 6-16-88; 29 CFR 1926.58: Asbestos, Tremolite, Anthrophyllite, and Actinolite, 53 FR 35610, 9-14-88). By letter dated January 26, 1990 from Michael J. Sullivan, Wyoming Occupational Health and Safety Division, to Byron R. Chadwick, OSHA Regional Administrator, the State submitted rules and regulations in response to the following Federal OSHA General Industry Standards (29 CFR 1910.1047: Occupational Exposure to Ethylene Oxide, 53 FR 11414, 4-6-88; 29 CFR 1910.120: Hazardous Waste Operations and Emergency Response, 54 FR 9294, 3-6-89; 29 CFR 1910.272: Grain Handling Facilities, 52 FR 49592, 12-31-87). By letter dated January 23, 1990 from Stephan R. Foster, Assistant Administrator, Wyoming Occupational Health and Safety Division, to Byron R. Chadwick, OSHA Regional Administrator, the State submitted rules and regulations in response to the following Federal OSHA General Industry Standards (29 CFR 1910.7 *etc.*: Safety Testing or Certification of Certain Workplace Equipment and Materials, 53 FR 168138, 5-11-88; 29 CFR 1910.20: Access to Employee Exposure and Medical Records, 53 FR 38140, 9-29-88; 29 CFR 1910.1001: Asbestos, Tremolite, Anthrophyllite, and Actinolite, 53 FR 35610, 9-14-88; 29 CFR 1910.177: Servicing Multi-piece and Single-piece Rim Wheels, 53 FR 34737, 9-8-88).

The above adoptions of Federal Standards have been incorporated in the State Plan and are contained in the

Wyoming Occupational Health and Safety Rules and Regulations for General Industry, as required by Wyoming Statute 1977, section 27–11–105 (a)(viii).

State Standards for 29 CFR 1926.550: Cranes and Derricks were adopted by the Health and Safety Commission of Wyoming on November 18, 1988 (effective December 19, 1988); State Standards for 29 CFR 1926.700–706: Concrete and Masonry Construction Safety Standards were adopted by the Health and Safety Commission of Wyoming on November 18, 1988 (effective December 19, 1988); State Standards for 29 CFR part 1926. 58: Asbestos, Tremolite, Anthophyllite, and Actinolite were adopted by the Health and Safety Commission of Wyoming on April 14, 1989 (effective June 7, 1989); State Standards for 29 CFR 1910.1047: Occupational Exposure to Ethylene Oxide were adopted by the Health and Safety Commission of Wyoming on November 18, 1988 (effective December 19, 1988); State Standards for 29 CFR 1910.120: Hazardous Waste Operations and Emergency Response were adopted by the Health and Safety Commission of Wyoming on August 30, 1989 (effective March 6, 1990); State Standards 29 CFR 1910.272: Grain Handling Facilities were adopted by the Health and Safety Commission of Wyoming on September 2, 1988 (effective September 23, 1988); State Standards for 29 CFR 1910.7 *etc.;* Safety Testing or Certification of Certain Workplace Equipment and Materials were adopted by the Health and Safety Commission of Wyoming on November 18, 1988 (effective December 19, 1988); State Standards for 29 CFR part 1910. 20: Access to Employee Exposure and Medical Records were adopted by the Health and Safety Commission of Wyoming on April 14, 1989 (effective June 7, 1989); State Standards for 1910.1001: Asbestos, Tremolite, Anthophyllite, and Actinolite were adopted by the Health and Safety Commission of Wyoming on April 14, 1989 (effective June 7, 1989); State Standards for 29 CFR 1910.177: Servicing Multi-piece and Single-piece Rim Wheels were adopted by the Health and Safety Commission of Wyoming on April 14, 1989 (effective June 7, 1989). Adoption of all these Standards was pursuant to Wyoming Statute 1977, section 27–11–105. The State standards on Cranes and Derricks; Concrete and Masonry Construction Safety Standards; Asbestos, Tremolite, Anthophyllite, and Actionolite in the Construction Industry; Occupational Exposure to Ethylene Oxide; Hazardous Waste Operations and Emergency Response; Grain Handling Facilities; Safety Testing or Certification of Certain Workplace Equipment and Materials (By letter dated April 13, 1990 from Stephan R. Foster, Assistant Administrator, Wyoming Occupational Health and Safety Division, to Byron R. Chadwick, OSHA Regional Administrator, the state of Wyoming advised that it will not establish a laboratory accreditation program and will accept the federal program as compliance with the state rules.); Access to Employee Exposure and Medical Records; Asbestos, Tremolite, Anthophyllite and Actinolite in General Industry; Servicing Multi-piece and Single-piece Rim Wheels are all substantially identical to the Federal Standards action, with the only exceptions being paragraph numbering and minor wordage appropriate only to the Wyoming statutes.

Decision

The above State Standards have been reviewed and compared with the relevant Federal Standards, and OSHA has determined that the State Standards are at least as effective as the comparable Federal Standards, as required by section 18(c)(2) of the Act. OSHA has also determined that the differences between the State and Federal Standards are minimal and that the Standards are thus substantially identical. OSHA therefore approves these standards. However, the right to reconsider this approval is reserved should substantial objections be submitted to the Assistant Secretary.

Location of Supplement for Inspection and Copying

A copy of the Standards Supplements, along with the approved Plan, may be inspected and copied during normal business hours at the following locations: Office of the regional Administrator, Room 1576 Federal Office Building, 1961 Stout Street, Denver, Colorado 80294; the Occupational Health and Safety Department, Herschler Building, 2nd Floor East, 122 West 25th Street, Cheyenne, Wyoming 82002; and the Office of State Programs, Room N–3700, 200 Constitution Avenue NW., Washington, DC 20210.

Public Participation

Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures, or show any other good cause consistent with applicable laws, to expedite the review process The Assistant Secretary finds that good cause exists for not publishing the supplements to the Wyoming State Plan as a proposed change and makes the Regional Administrator's approval effective upon publication for the following reason(s):

The Standards were adopted in accordance with the procedural requirements of State law which included public comment, and further public participation would be repetitious. This decision is effective May 11, 1990. (Sec. 18, Pub. L. 91–596, 84 Stat. 1608 [29 U.S.C. 667]).

Signed at Denver, Colorado this 19th day of April 1990.

Byron R. Chadwick,

Regional Administrator, VIII.

[FR Doc. 90–11076 Filed 5–10–90; 8:45 am]

BILLING CODE 4510–26–M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Nuclear Waste; Meeting

The Advisory Committee on Nuclear Waste (ACNW) will hold its 20th meeting on May 24 and 25, 1990, room P–110, 7920 Norfolk Avenue, Bethesda, MD, 8:30 a.m. until 5 p.m. each day. Portions of this meeting will be closed to discuss information the release of which would represent a clearly unwarranted invasion of personal privacy 5 U.S.C. 552b(c)(6).

The purpose of the meeting will be to review and discuss the following topics:

A. Review and comment on the NRC staff's draft Technical position on soil erosion and protection for uranium mill tailings sites (Open).

B. Briefing by the Center for Nuclear Waste Regulatory Analyses on the Systematic Regulatory Analysis (Program Architecture) for the high-level radioactive waste repository (Open).

C. Briefing on the status of activities associated with the licensing support system (Open).

D. Appointment of New Members—the Committee will discuss qualifications of candidates proposed for appointment to the ACNW (Closed).

E. Committee Activities—The Committee will discuss anticipated and proposed Committee activities, future meeting agenda, and organizational matters, as appropriate (Open).

Procedures for the conduct of and participation in ACNW meetings were published in the **Federal Register** on June 6, 1988 (53 FR 20699). In accordance with these procedures, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only

by members of the Committee, its consultants, and staff. The office of the ACRS is providing staff support for the ACNW. Persons desiring to make oral statements should notify the Executive Director of the office of the ACRS as far in advance as practical so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture, and television cameras during this meeting may be limited to selected portions of the meeting as determined by the ACNW Chairman. Information regarding the time to be set aside for this purpose may be obtained by a prepaid telephone call to the Executive Director of the office of the ACRS, Mr. Raymond F. Fraley (telephone 301/492-4516), prior to the meeting. In view of the possibility that the schedule for ACNW meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the ACRS Executive Director or call the recording (301/492-4600) for the current schedule if such rescheduling would result in major inconvenience.

Dated: May 7, 1990.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 90-11047 Filed 5-10-90; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 30-20787, License No. 29-21452-01; EA 90-080]

Consolidated NDE, Inc. Woodbridge, New Jersey; Order Suspending Operations and Modifying License

I

Consolidated NDE, Inc. (Licensee) is the holder of Materials License No. 29-21452-01 issued by the Nuclear Regulatory Commission ("NRC" or "Commission") which authorizes the licensee, in part, to possess numerous sealed radioactive sources in various radiography exposure devices used for the performance of industrial radiography in accordance with the conditions specified in the license. The license was most recently renewed on October 6, 1983, and although scheduled for expiration on September 30, 1988, has remained in effect pursuant to 10 CFR 30.37(b) since the licensee has submitted a timely application for renewal.

II

On April 25, 1990, an NRC inspection was conducted at a field site in Lacey Township and one near East Vineland, New Jersey, where radiography was being performed by licensee personnel. Although no violations were identified during the inspection at the field site in Lacey Township, New Jersey, numerous violations were identified at the field site near East Vineland, New Jersey, where radiography was being performed on a gas pipeline temporarily located above ground. The specific violations, which were identified by two NRC inspectors during their observation of twelve radiographic exposures, involved the failures by the individual performing the radiography to:

1. Survey the radiographic exposure device, as well as the associated guide tube, on at least one occasion, as well as the failure to perform adequate surveys on several other occasions in that those surveys did not include the entire circumference of the exposure device nor the full length of the guide tube as required by 10 CFR 34.43(b);

2. Lock the exposure device after radiographic exposures on at least three occasions, as required by 10 CFR 34.22(a);

3. Maintain direct surveillance of the high radiation area (created whenever the source was exposed), as required by 10 CFR 34.41, on at least three occasions in that the individual turned his back for a short period on each occasion and did not observe the area while walking away after having "cranked out" the source from the exposure device. During these three short periods, three non-radiation workers from the company responsible for the pipeline were within the posted radiation area and were approximately 100 feet from the high radiation area;

4. Adequately post required signs showing the radiation area and high radiation area, as required by 10 CFR 20.203(b) and (c), in that there were no signs posted on the side opposite the street along which the pipeline was being placed. At the time this was observed, the placement of the collimator was such that the highest radiation levels were in the area where the signs were not posted, specifically, the area perpendicular to the pipeline where the radiographic exposure was being taken; and

5. Survey the perimeter of the restricted area to assure that the area was appropriately established in accordance with Condition 17 of the license.

III

During a previous NRC inspection of the licensee at a field site in Lacey Township, New Jersey on March 20, 1990, the NRC had observed similar violations of regulatory and license requirements, including violations of requirements for surveying, surveillance, and posting. As a result of those March 20 findings, the NRC issued a Confirmatory Action Letter (No. 1-90-008) to the licensee on March 23, 1990, which confirmed the licensee's commitments to take certain actions to improve performance and control of radiography activities. Those commitments included the retraining of the responsible radiographers, discussion of these violations (as well as the company's policies on adherence to requirements) with all other radiographic personnel, and a visit to all job sites to discuss these matters and to audit the radiographers at those sites to confirm adherence to regulatory requirements. In addition, an enforcement conference was conducted with licensee management on April 5, 1990 to discuss the findings of that March 20, 1990 inspection.

Prior to these findings, the licensee had been issued a $5,000 civil penalty, on July 15, 1987, for the repetitive failure to adequately post and maintain surveillance of high radiation areas.

IV

Notwithstanding those previous findings, as well as the actions taken by the NRC and the licensee subsequent to identification of those findings, the licensee has not been effective in initiating appropriate corrective actions to prevent a recurrence of such violations, as evidenced by the recent violations identified at the field site near East Vineland. As a result, the NRC, Region I, issued another Confirmatory Action Letter (I-90-010) to the licensee on April 26, 1990 to confirm the licensee's commitments to remove the responsible individuals from radiography activities, and to meet with the NRC on April 27, 1990 to discuss these findings, their causes, and the planned corrective actions. At the April 27 meeting, the licensee denied that the first two safety violations had occurred. In addition, the licensee's President and Radiation Safety Officer raised questions regarding the validity of the third violation, involving the surveillance requirement. Furthermore, the licensee's President and Radiation Safety Officer attributed the cause of the other two violations to the licensee's failure to fully understand those specific NRC requirements, even though similar violations were identified during the March inspection and the specific NRC requirements were discussed during the April 5, 1990 enforcement conference.

V

The performance of licensed activities requires use of appropriate procedures, training of personnel regarding those procedures, and meticulous attention to detail by implementing personnel to ensure these activities are conducted safely and in accordance with regulatory requirements. Such attention is particularly important during the performance of radiography given the high radiation levels of the radioactive sources that are used. The failure to properly control the use of the radiography devices could result in significant exposures of individuals to radiation.

Given these recent findings, as well as the past performance of this licensee, it is apparent that licensee management is not adequately controlling and monitoring licensed activities performed by its employees, to assure adherence with requirements, and prompt identification and correction when violations exist. Therefore, I lack the requisite reasonable assurance that activities conducted under License No. 29–21452–01 will be performed safely and in compliance with the Commission's requirements unless certain measures are taken, both in the short term and the long term, to improve performance and control of radiographic activities. The health, safety, and interest of the public, including the licensee's employees, dictates that these actions be made effective immediately. Further, I have determined that no prior notice under 10 CFR 2.201 is required.

VI

Accordingly, pursuant to Sections 81, 161b, 161c, 161i, 161o, 182, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.204 and 10 CFR parts 30 and 34, *It is Hereby Ordered*, effective immediately, that the licensee shall:

A. Prohibit any individual from using radiography sources under License No. 29–21452–01 after the date of this order until such time as:

1. The individual has been retrained concerning NRC requirements, including the Licensee's existing procedures contained in License 29–21452–01 for the safe performance of radiographic activities, as modified by Section A.6 of this order, and the importance of assuring that regulatory requirements are met;

2. The specific findings of the NRC inspections conducted in March and April 1990, as well as the corrective actions taken, have been explained to the individual;

3. The licensee's specific disciplinary program for failure to adhere to requirements has been explained to the individual;

4. The individual submits a signed statement to the licensee that he or she understands the requirements, including his or her responsibilities as a radiographer under 10 CFR 34.2, and that he or she is committed to implementing these requirements;

5. Appropriate procedures have been revised to include:

a. Use of rope barriers to establish restricted areas at field sites, as well as other specific actions radiographers and radiographer's assistants will take to control access to those areas;

b. Specific designation in licensee records of the duties of each radiographer and radiographer's assistant as defined in 10 CFR 34; and

6. The licensee's Corporate Executive Officer has submitted to the NRC Region I a statement, under oath or affirmation, that items A.1 through A.5 have been completed.

B. The licensee shall retain for 3 years and make available for NRC inspection the training records and signed statements required by this order;

C. Until further notice, notify the NRC Region I, by 9:00 a.m. on the Monday of each week, of the field sites where radiography is planned that week, as well as the specific date such radiography is planned;

D. Within 30 days of the date of this Order,

1. Obtain the services of one or more independent consultant(s) to perform an assessment of the licensee's radiation safety program. The consultant(s) shall have in-depth knowledge of radiation protection theory and good practice, management of radiation protection programs and radiation protection quality assurance program, as obtained through a combination of academic training and practical experience of its staff assigned to perform the assessment;

2. Submit to the Regional Administrator, Region I, for approval, the name(s) of the proposed organization(s), the qualifications and experience of the individuals who will perform the assessment, statements from these individuals and organization(s) regarding the extent to which they have been previously employed by licensees and a description of the plan to accomplish the assessment. The consultant(s) shall complete the assessment within 120 days of NRC approval. This assessment shall include a review of the:

a. Adequacy and implementation of the licensee's Radiation Safety procedures related to assigned radiation protection functions at all field sites under NRC jurisdiction;

b. Qualifications and training of licensee employees to perform assigned radiation protection functions at all job sites and field sites;

c. Adequacy of the number of licensee staff assigned to perform radiation safety management and supervision activities;

d. Adequacy of the field audits conducted by licensee personnel and the audit procedure used by these personnel;

e. Adequacy of all licensee records (including the records of licensee management's audits of radiographers) to demonstrate that the radiation protection program is conducted as required; and

f. Adequacy of the system that management uses to assure itself that the radiation protection program is adequate and being implemented.

This assessment shall include the independent consultant accompanying each licensee auditor on at least one day's unannounced audit activities at field sites. This assessment is to address the ability of the licensee's auditors to adequately assess radiographers performance in the field, as well as ascertain radiographers' knowledge, understanding of, and adherence to, radiation safety requirements as required by procedures.

Based on its assessment, the consultant(s) shall prepare a written report which identifies the specific and programmatic weaknesses that could contribute to further violations of NRC requirements, and shall provide recommendations for improvements necessary to assure compliance with NRC requirements. The assessment report shall be prepared within 30 days of completion of the assessment, and the licensee shall direct the consultant(s) to submit to the Regional Administrator, Region I, a copy of the report and any drafts thereof, at the same time they are sent or disclosed to the licensee or any of its employees.

D. Within 30 days after receipt of the consultant(s) report, submit a plan to the Regional Administrator, NRC Region I in response to the findings and recommendations of the assessment report, which describes how the licensee will incorporate and implement recommendations set forth in the consultant's assessment report, as well as schedule for implementation of the recommendations. If any of the consultant's recommendations are not adopted, the licensee shall provide in its report justification for not adopting any

recommendation(s). Furthermore, the plan shall also include retraining and testing of radiographers, auditors, and the RSO on all the radiation safety procedures revised as a result of this Order.

The Regional Administrator, NRC Region I, may in writing, relax or terminate any of the above conditions upon demonstration by the Licensee of good cause.

VII

The Licensee or any other person adversely affected by this Order may submit an answer to this Order within 20 days of the date of this Order. The answer may set forth the matters of law upon which the licensee or other person adversely affected relies and the reasons as to why the Order should not have been issued. An answer filed within 20 days of the date of this Order may also request a hearing. Any answer or request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Chief, Docketing and Service Section, Washington, DC 20555. Copies of the hearing request and answer also shall be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Assistant General Counsel for Hearings and Enforcement at the same address, and to the Regional Administrator, Region I, 475 Allendale Road, King of Prussia, PA 19406. If a person other than the Licensee requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d). In the absence of any request for a hearing within the specified time, this Order shall be final without further Order or proceedings. A request for a hearing shall not stay the immediate effectiveness of this order.

If a hearing is requested by the Licensee or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland this 2nd day of May 1990.

Hugh L. Thompson, Jr.,

Deputy Executive Director for Nuclear Materials Safety, Safeguards, and Operations Support.

[FR Doc. 90-11045 Filed 5-10-90; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 030-12150, License No. 13-17073-01; EA 90-072]

Porter Memorial Hospital Valparaiso, IN; Confirmatory Order Suspending Brachytherapy Activities and Modifying License

I

Porter Memorial Hospital, Valparaiso, Indiana, is the holder of Materials License No. 13-17073-01 which was issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR parts 30 and 35 on October 28, 1976. License No. 13-17073-01 was renewed in its entirety on March 17, 1988. The license authorizes, among other activities, a brachytherapy program for uses defined in 10 CFR 35.400. The license is due to expire on May 31, 1993.

II

As a result of allegations regarding the brachytherapy program at St. Mary Medical Center, Hobart, Indiana, the NRC performed a special inspection at St. Mary Medical Center—Hobart and St. Mary Medical Center—Gary, during March and April 1990, which disclosed significant deficiencies in the implementation of the brachytherapy program at those hospitals. The inspection disclosed, among other things, that there may have been misadministrations during brachytherapy procedures by an authorized user physician who also performs brachytherapy treatments at Porter Memorial Hospital. As a result of the inspection at the St. Mary Medical Centers, a question was raised as to whether the brachytherapy program at Porter Memorial Hospital was being conducted in a manner consistent with public health and safety. A special inspection was conducted on April 5, April 16, and April 27, 1990 at Porter Memorial Hospital, Valparaiso, Indiana, and Diagnostic Outpatient Center, Hobart, Indiana.

III

The inspection disclosed that, between 1987 and 1989, six brachytherapy procedures were performed at Porter Memorial Hospital. For five of these procedures, records had not been maintained at the licensee's facility to indicate either the prescription of the intended dose to the patient or the treatment planning. For at least four of the six therapies, the licensee had no records describing the final dose delivered to the patient. (However, during the April 27, 1990 inspection it was noted that one of the authorized physician users did maintain private records at his office containing this information.) As a result of this lack of documentation regarding the brachytherapy procedures performed under its license, the licensee could not determine whether the administration of NRC licensed materials was performed safely and whether those administrations occurred as prescribed and planned. In addition, the inspection disclosed that one brachytherapy procedure had been performed on April 25-27, 1989, by a physician who was not named as an authorized user on the license issued to Porter Memorial Hosptial.

As a result of the inspection, Confirmatory Action Letters (CALs) were issued to Porter Memorial Hosptial by NRC Region III on April 9 and 13, 1990. The CALs confirmed Porter Memorial Hospital's voluntary agreement to:

1. Assure that the licensee's Radiation Safety Officer (RSO) will personally verify, prior to the treatment of patients, the following:

a. That brachytherapy treatment plans are reviewed by the authorized user (physician therapist.)

b. That the authorized user prescribes and makes a written record of the prescribed therapeutic dose.

(If the RSO is unavailable, a qualified authorized user other than the authorized user performing the procedure may verify the above.)

2. Within 30 days from the date of the April 9, 1990 CAL, submit a license amendment request to incorporate a brachytherapy Quality Assurance and Quality Control (QA/QC) Program in its license.

3. Immediately suspend one physician as an authorized user for all 10 CFR 35.400 use of sources for the brachytherapy treatment of patients as authorized by is license.

Based on statements made during the inspection and during an Enforcement Conference held in the Region III office with licensee representatives and one of the licensee's authorized users on April 25, 1990, it was established that the licensee's Radiation Safety Officer and Radiation Safety Committee were unaware of the ordering of radioactive sources for brachytherapy procedures, the performance of brachytherapy in the licensee's facility, or of NRC and licensee requirements related to brachytherapy. It was disclosed that the licensee's Radiation Safety Officer failed to establish procedures authorizing the purchase of NRC licensed materials for brachytherapy as required in 10 CFR 35.21(b). The Radiation Safety Committee and

Radiation Safety Officer failed to fulfill their responsibilities for program audit and oversight established in 10 CFR 35.21, 35.22 and 35.23. Brachytherapy was performed at Porter Memorial Hospital without appropriate administrative controls to assure safe administration of NRC licensed materials. Furthermore, in one case, brachytherapy was performed by a physician who was not authorized by the NRC license to do so. The licensee also failed to ensure that the date and time for the removal of brachytherapy sources was specified in the nursing instructions for brachytherapy patients immediately after the sources were implanted, as required by the license. This precluded the licensee from being able to identify any physician user's failures to meet his or her schedule for source removal. In addition, the Radiation Safety Officer and Radiation Safety Committee failed to review the brachytherapy activities under the licensee's license on an annual basis as required in 10 CFR 35.21(b) and 10 CFR 35.22(b).

IV

Proper adminsitrative controls, knowledge of NRC regulations, and oversight of a licensee's brachytherapy activities are fundamental to ensuring radiation safety. The Radiation Safety Committee and Radiation Safety Officer failed to ensure that proper controls were in place and followed for brachytherapy activities. Brachytherapy sources, if used carelessly and without regard to their potential hazard, are capable of causing serious injury. The licensee's administrative procedures and controls should ensure, among other things, that administration of NRC licensed materials is documented such that the licensee can confirm that administration occurred as prescribed and planned. This ensures timely identification of any problems incuding therapeutic misadministrations. Licensee personnel should have been aware of appropriate administrative controls to be implemented regarding brachytherapy activities and licensee management should have been cognizant of activities performed under their license to ensure that NRC licensed materials would be used safely.

The NRC is concerned as to whether the licensee will conduct and supervise brachytherapy activities under License No. 13–17073–01 in compliance with the Commission's requirements and such that the health and safety of the public, including the licensee's employees and the brachytherapy patients treated at the licensee's facility, will be protected. In additon, the NRC is concerned that unreported brachytherapy misadministrations could have occurred at the licensee's facility, and that the records of brachytherapy procedures should be reviewed in order to determine whether such misadministrations did, in fact, occur.

By letter dated April 27, 1990, the licensee committed to take the following actions:

1. Suspend the performance of brachytherapy procedures at Porter Memorial Hospital until such time as the licensee has been able to attain conformance with NRC standards and regulations. If conformance is not obtainable, the licensee will request from the NRC an amendment to its license deleting authorization for performing brachytherapy at Porter Memorial Hospital.

2. Perform a retrospective review of the six brachytherapy procedures performed at the licensee's facility since 1987. In this review, the licensee will attempt to determine whether there was any occurrence of misadministration as defined in the NRC's regulations. This review will be conducted by a medically qualified independent person such as an oncologist or medical physicist.

3. In the event that it is determined that a misadministration occurred, appropriate patient followup will be undertaken.

4. The staff of Porter Memorial Hospital, the Radiation Safety Committee, and the licensee's consultant on nuclear medicine and bracytherapy will participate in this review process to determine the causative factors contributing to the problems discussed during the April 25, 1990, Enforcement Conference.

5. The information obtained in this review will be analyzed to determine whether the balance of the licensee's nuclear medicine program at Porter Memorial Hospital is being conducted in conformance with NRC's regulations.

6. Following completion of the licensee's review, the NRC will be informed in writing and a copy of the report of the review will be submitted to the NRC.

Thereafter, the licensee agreed to a Confirmatory Action Letter dated April 27, 1990, that, among other things, suspended the performance of brachytherapy procedures under essentially the same terms. This CAL also modified the CAL of April 9, 1990 and rescinded the CAL of April 13, 1990.

V

I find the licensee's commitments as set forth in its letter of April 27, 1990 are acceptable and necessary and conclude that with these commitments the public health and safety are reasonably assured. In view of the foregoing, I have determined that the public health and safety require that the licensee's commitments in its April 27, 1990 letter be confirmed by this Order and that the April 9, 1990 CAL be rescinded. Pursuant to 10 CFR 2.204, I have also determined that the public health and safety require that this Order be effective immediately.

VI

Accordingly, pursuant to section 81, 161.b, 161.c, 161.i, and 161.o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.204 and 10 CFR parts 30 and 35, *it is hereby ordered,* effective immediately, that license No. 13–17073–01 is modified as follows:

A. Items No. 6.d, 7.d, 8.d, and 9.d of License No. 13–17073–01, which permit brachytherapy treatments at Porter Memorial Hospital, are suspended.

B. Within 30 days of the date of this Order, the licensee shall: (1) Retain an independent qualified medical consultant or organization to assist with the audit of all appropriate records and patient medical files of the brachytherapy program since program inception; and (2) submit to the Regional Administrator, NRC, Region III, for approval, a description of the qualifications of the organization or consultant retained, including the name(s) and resume(s) of the individuals who will perform the audits, and the audit plans.

The audit group shall be instructed to determine if brachytherapy misadministrations occurred and what followup medical evaluations, if any, should be conducted. Further the audit group shall provide recommendations for improvement to the brachytherapy program which would prevent recurrence of such misadministrations. Should the audit group disclose that brachytherapy misadministrations have occurred, the licensee will for each brachytherapy misadministration, make the notifications and report required pursuant to 10 CFR 35.33.

C. The licensee shall determine the causative factors contributing to the problems discussed during the April 25, 1990, Enforcement Conference. The information obtained in this review will be analyzed to determine whether the balance of the licensee's nuclear medicine program at Porter Memorial Hospital is being conducted in accordance with Commission regulations.

D. The audit shall be completed and a copy of the report of the audit shall be

submitted to the NRC Regional Administrator, Region III, within 30 days of NRC approval of the individuals who will perform the audit and the audit plans.

The Regional Administrator, NRC Region III, may, in writing, relax or rescind the above conditions upon demonstration by the Licensee of good cause.

VII

Any person other than the Licensee adversely affected by this Confirmatory Order may request a hearing within twenty days of its issuance. Any request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Chief, Docketing and Service Section, Washington, DC 20555. Copies of the hearing request also shall be sent to the Director, Office of Enforcement, and the Assistant General Counsel for Hearings and Enforcement at the same address and to the Regional Administrator, NRC Region III, 799 Roosevelt Road, Glen Ellyn, Illinois 60137. If such a person requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d). A request for hearing shall not stay the immediate effectiveness of this confirmatory order.

If a hearing is requested by a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order should be sustained.

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland this 2nd day of May 1990.

Hugh L. Thompson, Jr.,

Deputy Executive Director for Nuclear Materials Safety, Safeguards, and Operations Support.

[FR Doc. 90-11046 Filed 5-10-90; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-361 and 50-362]

Southern California Edison Co. et al.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (Commission) has issued Amendment No. 87 to Facility Operating License No. NPF-10 and Amendment No. 77 to Facility Operating License No. NPF-15, issued to Southern California Edison Company, San Diego Gas and Electric Company, The City of Riverside, California and The City of Anaheim, California (the licensees), which revised the Technical Specifications for operation of the San Onofre Nuclear Generating Station, Unit Nos. 2 and 3, located in San Diego County, California.

The amendments were effective as of the date of issuance.

These amendments revised the following Technical Specifications:

- Technical Specification 5.6.1(b) changed the current 12.75 inches center-to-center rack storage location spacing to 10.40 inches center-to-center spacing for Region I, and 8.85 inches center-to-center spacing for Region II.
- Existing Technical Specification 5.6.2 for dry storage of the first core in the fuel pool in alternate rows and columns was deleted. This Technical Specification was only applicable for the first core and the pool is filled with water which is maintained at a minimum level as prescribed by Technical Specification 3.9.11, "Water Level—Storage Pool."
- New Technical Specification 5.6.2 and accompanying Figures 5.6.1, 5.6.-2, 5.6-3, and 5.6-4 defines the fuel enrichment/burnup limits for storage of Units 1, 2, and 3 fuel in Region II of the high capacity spent fuel storage racks. This new Technical Specification defines the conditions and storage patterns (checkerboard or alternating row) which new or burned fuel that does not meet the enrichment vs. burnup criteria for unrestricted storage in Region II may be stored in Region II.

Lastly, this new Technical Specification defines the conditions (empty—alternating cells—empty) under which a new/burned fuel reconstitution station may be established in Region II.

- Technical Specification 5.6.4 was revised to designate that no more than 1542 fuel assemblies may be stored in the spent fuel racks, which is an increase of 742 from the current limit of 800 elements.
- Technical Specification 3.9.7 was revised to prohibit the lift of construction heavy loads over the spent fuel or cask pools except for the following four cases:

—Spent fuel pool gates shall not be carried at a height greater than 30 inches (elevators 36 feet 4 inches) over the fuel racks

—Test equipment skid (4500 pounds) shall not be carried at a height greater than 72 inches (elevation 39 feet 10 inches) over rack cells that contain Unit 2 or 3 fuel assemblies or greater than 30 feet 8 inches (elevation 64 feet 6 inches) over rack cells that contain Unit 1 fuel assemblies

—Installation or removal of the cask pool cover over the cask pool with fuel in the cask pool

—The lift of construction loads including the temporary gantry crane and the old and the new fuel storage racks (including lifting equipment and rigging), above the cask pool with the cask pool cover in place and fuel in the cask pool. This includes temporary storage of these construction loads on the cask pool cover during construction. These lifts are prohibited prior to a minimum fuel decay time of 88 days for all stored fuel assemblies.

- The basis for Specification 3.9.7 was revised to reflect the analysis for the heavy load drops associated with the revised Specification 3.9.7.
- A new Technical Specification 3.9.13 (Bases 3/4.9.13) was added to specify the boron concentration limit in the pool as 1850 ppm, which includes 50 ppm for measurement uncertainties, prior to any fuel movement.
- Technical Specification 3.9.12 (Bases 3/4.9.12) was revised to allow both trains of the Fuel Handling Building Post-Accident Cleanup Filter System to be out of service during the construction period for reracking the spent fuel pool. This revision to Technical Specification 3.9.12 was required to allow continued operation of the spent fuel handling machine without fuel, temporary gantry crane and cask handling crane with the fuel handling building equipment hatches open. Compliance with this revised Technical Specification 3.9.12 will ensure that with a minimum fuel decay time of 88 days, the radiological consequences of the worst postulated heavy load drop in the pools will not result in releases that exceed 25 percent of the 10 CFR 100 limits at the exclusion area boundary.
- Revision to design features section of 5.6.3 of the Operating License will provide consistency with Technical Specification 3.9.11 value of 23 feet of water to be maintained over the top of irradiated fuel assemblies.

These amendments were in response to an application for amendments designed as PCN 287.

The application for amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR chapter I, which are set forth in the license amendments.

Notice of Consideration of Issuance of Amendments and Opportunity for Hearing in connection with this action was published in the **Federal Register** on April 24, 1989 (54 FR 16438–B). No request for a hearing or petition for leave to intervene was filed following this notice.

Pursuant to 10 CFR 51.21, 51.32, and 51.35, an Environmental Assessment and Finding of No Significant Impact has been prepared. A Notice of Issuance of Environment Assessment and Finding of No Significant Impact was published in the **Federal Register** on February 27, 1990 (55 FR 8248), as supplemented April 6, 1990 (55 FR 12971). Based on the Environmental Assessment, the Commission has determined that the issuance of the amendments will not result in any significant environmental impact.

For further details with respect to the action see (1) The applications for amendments dated March 10, April 19, May 4, May 19, June 1, June 2, September 22, November 2, November 9, 1989, January 18, February 9, February 16, and March 20, 1990; (2) Amendment No. 87 to License No. NPF–10; (3) Amendment No. 77 to License No. NPF–15; (4) the Commission's related Safety Evaluation dated May 1, 1990; and (5) the Commission's Environmental Assessment, dated February 27, 1990 (55 FR 8248), as supplemented April 6, 1990 (55 FR 12971). All of these items are available for pubic inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC 20555, and at the General Library, University of California, P.O. Box 19557, Irvine, California 92713. A copy of items (2), (3), (4) and (5) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects III, IV, V and Special Projects.

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland this 1st day of May 1990.

Lawrence E. Kokajko,

Project Manager, Project Directorate V, Division of Reactor Projects—III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 90–11044 Filed 5–10–90; 8:45 am]

BILLING CODE 7590–01–M

Intent To Relocate Records for the Grand Gulf Nuclear Station

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of intent to relocate the records for the Grand Gulf Nuclear Station.

SUMMARY: Notice is hereby given that the U.S. Nuclear Regulatory Commission (NRC) is moving the Local Public Document Room (LPDR) records collection for Mississippi Power and Light Company's Grand Gulf Nuclear Station from the George M. McLendon Library, Hinds Community College, Raymond, Mississippi, to an as yet undetermined location. The McLendon Library is no longer able to maintain the collection due to limited space, and has asked that the Grand Gulf documents be relocated. The purpose of this notice is to invite public comment on possible LPDR sites.

DATES: Comment period expires July 10, 1990. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments filed on or before this date.

ADDRESSES: Written comments may be submitted to Mr. David Meyer, Chief, Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Copies of comments received may be examined at the NRC Public Document room, 2120 L Street NW. (Lower Level), Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mrs. Jona L. Souder, Local Public Document Room Program Manager, Freedom of Information Act/Local Public Document Room Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone 301–492–7536, or Toll-Free 800–638–8081.

SUPPLEMENTARY INFORMATION: Since 1981, the George McLendon Library, Hinds Community College, Raymond, Mississippi, has served as the NRC Local Public Document Room repository for records relating to the Grand Gulf Nuclear Station. The document collection includes essentially all publicly-available records considered by the NRC in the licensing and regulation of the Grand Gulf Nuclear Station. At the present time the collection takes up approximately 50 linear feet of shelf space in addition to some NRC-furnished microfiche and microfiche equipment.

Among the factors the NRC will consider in selecting a new location for the collection are the following:

(1) Whether the institution is an established document repository located within 50 miles of the nuclear facility with a history of impartially serving the public;

(2) The physical facilities available, including shelf space, patron workspace, and copying equipment;

(3) The willingness and ability of the library staff to maintain the LPDR collection and assist the public in locating records;

(4) The nature and extent of related research resources, such as government documents;

(5) The public accessibility of the library, including parking, ground transportation, and hours of operation, particularly evening and weekend hours;

(6) The proximity of the library to existing user groups of the collection, if known; and

(7) The accessibility of the NRC documents to handicapped persons.

Public comments are requested on libraries in the vicinity of the Grand Gulf Nuclear Station that might be considered for selection as the new location for this NRC local public document room collection.

Dated at Bethesda, Maryland, this 7th day of May, 1990.

For the Nuclear Regulatory Commission.

Donnie H. Grimsley,

Director, Division of Freedom of Information and Publications Services, Office of Administration.

[FR Doc. 90–11042 Filed 5–10–90; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–155]

Consumers Power Co.; Big Rock Point Plant, Issuance of Director's Decisions Under 10 CFR 2.206

Notice is hereby given that the Director, Office of Nuclear Reactor Regulation, has issued a Director's Decision concerning a Petition dated November 11, 1989, and amended March 15, 1990, filed by Concerned Citizens for the Charlevoix Area (Petitioner). The Petitioner requested that the Nuclear Regulatory Commission (NRC) order Consumers Power Company (CPCo) to update and retrofit the Big Rock Point Plant to meet current criteria for safety design and radioactive affluents. The Petitioner further requested that the NRC prohibit continued operation of the facility until such time as these objectives are met. The Petition alleged that the NRC and CPCo jointly have used cost/benefit criteria and "grandfathering" to deter implementation of current safety

criteria, resulting in indefensibly large radioactive emissions from the Big Rock Point facility.

The Director has determined that the Petitioner's request should be denied for the reasons set forth in the "Director's Decision Pursuant to 10 CFR § 2.206" (DD-90-02) which is available for inspection and copying in the Commission's Public Document Room, 2120 L Street NW., Washington, DC 20555 and at the local Public Document Room for the Big Rock Point Plant at North Central Michigan College, 1515 Howard Street, Petoskey, Michigan 49770.

A copy of the Decision will be filed with the Secretary for Commission review in accordance with 10 CFR 2.206(c). As provided in 10 CFR 2.206(c), the Decision will become the final action of the Commission 25 days after issuance unless the Commission on its own motion institutes a review of the Decision within that time.

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland this 4th day of May 1990.

Thomas E. Murley,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 90-11043 Filed 5-10-90; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. 301-78]

Insurance Market Barriers Maintained by the Government of India

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of request for public comment.

SUMMARY: The United States Trade Representative ("USTR") is seeking further public comment with respect to barriers to foreign insurance providers maintained by the Government of India, and in particular whether such practices are unreasonable or discriminatory and burden or restrict United States commerce, and if so, what responsive action, if any, should be taken pursuant to section 301 of the Trade Act of 1974, as amended ("the Trade Act").

DATES: Written comments from interested persons are due by noon on Monday, June 11, 1990.

ADDRESSES: Comments should be addressed to the Chairman, Section 301 Committee, Office of the United States Trade Representative, room 222, 600 17th Street NW., Washington, DC 20506

FOR FURTHER INFORMATION CONTACT: Peter Collins, Director for Southeast Asian and Indian Affairs, (202) 395-6813, or Daniel Price, Deputy General Counsel, USTR, 395-6800.

SUPPLEMENTARY INFORMATION: On May 26, 1989, pursuant to section 310 of the Trade Act, the USTR identified as a "priority practice" the barriers maintained by the Government of India with respect to sales of insurance in India by foreign insurance companies (54 FR 24438). Private insurance companies are not permitted to sell insurance to India. The state-owned General Insurance Company of India and its four subsidiaries have a monopoly on sales of general insurance, and the state-owned Life Insurance Corporation of India has a monopoly on the sale of life insurance in India.

On June 16, 1989, USTR initiated an investigation under section 302 of the Trade Act (54 FR 26135). In July 1989, USTR received public comments on India's policies and practices and on the burden or restriction on U.S. commerce caused by these practices, and thereafter began talks with the Government of India. To date no resolution has been reached.

Section 304 of the Trade Act requires the USTR in this case to determine by June 16, 1990, whether India's practices are unreasonable or discriminatory and burden or restrict U.S. commerce. If that determination is affirmative, the USTR must determine what action, if any, to take under section 301 in response.

Public Comment

The USTR invites all interested persons to provide written comments on the required determinations. Comments will be considered in recommending any determination or action under section 301 to the USTR.

All written submissions must be filed in accordance with 15 CFR 2006.8, and will be placed in a file (Docket 301-78) open to public inspection pursuant to 15 CFR 2006.12 (except confidential business information exempt from public inspection in accordance with 15 CFR 2006.15). Submissions are to be made in twenty (20) copies, in English, by noon on Monday, June 11, 1990, to: Chairman, Section 301 Committee, Office of the U.S. Trade Representative, room 222, 600 17th Street NW., Washington, DC 20506.

A. Jane Bradley,

Chairman, Section 301 Committee.

[FR Doc. 90-11080 Filed 5-10-90; 8:45 am]

BILLING CODE 3190-01-M

[Docket No. 301-77]

Trade-Related Investment Measures Maintained by the Government of India

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of request for public comment.

SUMMARY: The United States Trade Representative ("USTR") is seeking further public comment with respect to trade-restricting measures imposed by the Government of India on foreign investors, and in particular whether such practices are unreasonable or discriminatory and burden or restrict United States commerce, and if so, what responsive action, if any, should be taken pursuant to section 301 of the Trade Act of 1974, as amended ("the Trade Act").

DATES: Written comments from interested persons are due by noon on Monday, June 11, 1990.

ADDRESSES: Comments should be addressed to the Chairman, Section 301 Committee, Office of the United States Trade Representative, room 222, 600 17th Street NW., Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: Peter Collins, Director for Southeast Asian and Indian Affairs, (202) 395-6813, or Daniel Price, Deputy General Counsel, USTR, 395-6800.

SUPPLEMENTARY INFORMATION: On May 26, 1989, pursuant to section 310 of the Trade Act, the USTR identified as a "priority practice" the trade-restricting measures imposed by the Government of India upon foreign investors (54 FR 24438). Government approval is required for all new or expanded foreign investment in India. Approval is conditioned upon a number of criteria, including limits on foreign equity participation. Where approval is granted, the Indian Government often requires investors to use locally-produced goods in the items they produce in India, rather than allowing them to import the best quality and most cost-effective products. Some investors are also required to meet export targets. These and other requirements affect foreign investors, and result in significant trade distortions.

On June 16, 1989, USTR initiated an investigation under section 302 of the Trade Act (54 FR 26136). In July 1989, USTR received public comments on India's policies and practices and on the burden or restriction on U.S. commerce caused by these practices, and thereafter began talks with the Government of India. To date no resolution has been reached.

Section 304 of the Trade Act requires the USTR in this case to determine by June 16, 1990, whether India's practices are unreasonable or discriminatory and burden or restrict U.S. commerce. If that determination is affirmative, the USTR must determine what action, if any, to take under section 301 in response.

Public Comment

The USTR invites all interested persons to provide written comments on the required determinations. Comments will be considered in recommending any determination or action under section 301 to the USTR.

All written submissions must be filed in accordance with 15 CFR § 2006.8, and will be placed in a file (Docket 301-77) open to public inspection pursuant to 15 CFR 2006.12 (except confidential business information exempt from public inspection in accordance with 15 CFR 2006.15). Submissions are to be made in twenty (20) copies, in English, by noon on Monday, June 11, 1990, to: Chairman, Section 301 Committee, Office of the U.S. Trade Representative, room 222, 600 17th Street NW., Washington, DC 20506.

A. Jane Bradley,

Chairman, Section 301 Committee.

[FR Doc. 90-11079 Filed 5-10-90; 8:45 am]

BILLING CODE 3190-01-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 34-27995; File No. SR-ICC-90-02]

Self-Regulatory Organizations; Filing of a Proposed Rule Change by the Intermarket Clearing Corporation Relating to the Deposit and Equity and Debt Issues as Margin

May 4, 1990.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) ("Act"), notice is hereby given that on March 14, 1990, The Intermarket Clearing Corporation ("ICC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would allow ICC clearing members that have elected cross-margining pursuant to ICC's cross-margining program with The Options Clearing Corporation ("OCC") to deposit in respect to a cross-margined account common and preferred stocks and corporate bonds.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

ICC proposes to amend its Rule 502(A) by adopting subsection (a)(4) so as to permit common and preferred stocks ("stocks") and corporate bonds to be deposited as margin in respect to accounts that are subject to the cross-margining procedures set forth in ICC Rule 513 and in the rules of OCC. The proposed amendment follows closely OCC's Rule 604(d). To be eligible for deposit as margin, the stocks must have a market value greater than $10.00 per share and must be either traded on a national securities exchange or traded in the over-the-counter market and designated as National Market Systems Securities. Corporate bonds must be listed on a national securities exchange and not in default, have a readily determinable market value and be rated in one of the four highest categories by a nationally recognized rating organization. In the event that an issue is suspended from trading in its primary market or subject to special margin requirements under the rules of its primary market because volatility, lack of liquidity or a similar characteristic, it will not be accepted for margin purposes.

Stocks and convertible bonds deposited pursuant to proposed Rule 502(a)(4) may be deposited only with respect to a cross-margined account of the clearing member. Accordingly, such deposits will be used to satisfy any margin requirements arising from the clearing member's positions in OCC-issued options as well as ICC-cleared commodity options and futures contracts carried in the cross-margined account. Such stocks and convertible bonds will be valued on a daily basis either at the then maximum loan value of the stocks or bonds pursuant to the provisions of Regulation U of the Federal Reserve System or at such a lower value as ICC may prescribe. Deposited non-convertible bonds shall be valued on a daily basis at 70% of current market value or at such a lower value as ICC may prescribe. Equity and debt issues of any one issuer shall not be valued in excess of ten percent (10%) of the margin requirement of a given clearing member.

Proposed Rule 502(a)(4) permits securities to be deposited for margin purposes in an OCC account with a bank, trust company or other depository approved by ICC. Such deposits must be made under irrevocable arrangements permitting the stock to be sold promptly and without notice by or on the order of OCC for the account of the clearing member. All fees and expenses incident to the ownership or sale of such stocks or bonds shall be borne by the clearing member, and all dividends, interest or gains received or accrued on such securities will belong to the depositing clearing member. Securities deposited in respect of cross-margined accounts will be held, for convenience, in OCC's account at a depository and will be identified on the records of OCC as held in respect of such cross-margined accounts. OCC will hold such securities pursuant to an agreement between OCC and ICC.

Securities held for the account of a customer may not be deposited in respect of any proprietary account. In making deposits of securities pursuant to this proposed rule, a clearing member represents and warrants that such deposit is not in violation of any law or rule of any regulatory authority.

ICC believes that the proposed rule change is consistent with the purposes and requirements of section 17A of the Act because it allows clearing members that have elected cross-margining increased flexibility in meeting their margin requirements and thus provides lower clearing margin costs to cross-margining clearing members while maintaining the safety of the clearing system.

B. Self-Regulatory Organization's Statement on Burden on Competition

ICC does not believe that the proposed rule change would impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments were not and are not intended to be solicited by ICC with respect to the proposed rule change and none have been received by OCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to file number SR-ICC-90-02 and should be submitted by June 1, 1990.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 90-10993 Filed 5-10-90; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 34-27989; SR-PSE-90-15]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Pacific Stock Exchange, Incorporated relating to Listing of Index Warrants Based on the Financial Times-Stock Exchange 100 Index

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on April 4, 1990, the Pacific Stock Exchange Incorporated ("PSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PSE is submitting to the Commission a proposed rule change which will allow the PSE to list warrants based on the Financial Times-Stock Exchange 100 Index ("FT-SE 100").[1]

II. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C), below of the most significant aspect of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The PSE is submitting the proposed rule change in order to allow the Exchange to list index warrants based on the FT-SE 100. The Commission has approved the listing of FT-SE 100 Index warrants on the American Stock Exchange ("AMEX").[2] The FT-SE 100 is an internationally recognized, capitalization-weighted stock index based on the prices of 100 of the most highly capitalized British stocks traded on the International Stock Exchange of the United Kingdom and the Republic of Ireland. The FT-SE 100 warrant issues will conform to the PSE listing guidelines proposed in PSE Filing SR-PSE-90-11,[3] which provide that: (1) the issuer shall have assets in excess of $100,000,000 and otherwise substantially exceed the size and earnings requirements specified in PSE listing requirements; (2) the term of the warrants shall be for a period ranging from one to five years from date of issuance; and (3) the minimum public distribution of such issues shall be 1,000,000 warrants together with a minimum of 400 public holders, and shall have an aggregate market value of $4,000,000.

The FT-SE 100 Index warrants will be direct obligations of their issuer subject to cash settlement during their term, and either exercisable throughout their life (i.e., American style) or exercisable only on their expiration date (i.e., European style). Upon exercise, or at the warrant expiration date (if not exercisable prior to such date), the holder of a warrant structured as a put option would receive payment in U.S. dollars to the extent that the FT-SE 100 has declined below a pre-stated cash-settlement value. Conversely, holders of a warrant structured as a call option would, upon exercise or at expiration, receive payment in U.S. dollars to the extent that the FT-SE 100 has increased above the pre-stated cash-settlement value. If "out-of-the-money" at the time of expiration, the warrants would expire worthless.

Trading in FT-SE 100 warrants would be subject to several safeguards designed to ensure investor protection. In filing SR-PSE-90-11, the PSE proposed amendments to PSE Rule X, Section 18, which would: (i) make the Exchange's options suitability standards applicable to recommendations regarding index warrants and (ii) require that a Senior Registered Options Principal or a Registered Options Principal approve and initial a discretionary order in index warrants on the day the order is entered. The Exchange also recommends that index warrants be sold only to options-approved accounts. Prior to the commencement of trading, the Exchange will distribute a circular to its membership calling attention to the

[1] The Commission will act on this filing in conjunction with a related PSE filing (SR-PSE-90-11) proposing generic listing standards for warrants based on domestic and international market indexes and certain sales practice rules for the trading of these warrants.

[2] *See* Securities Exchange Act Release No. 27769 (March 6, 1990), 55 FR 9380.

[3] *See supra* note 1.

specific risks associated with the FT-SE 100 warrants.

In addition, the PSE is ensuring that there will be an adequate mechanism for the sharing of surveillance information with respect to the Index's component stocks (*i.e.*, the PSE is negotiating a Memorandum of Understanding relating to information sharing with The Securities Association, the self-regulatory organization responsible for regulating the United Kingdom equity securities market). This will comply with and reflect the same obligations imposed upon the AMEX when its application for FT-SE 100 warrants was approved.

The Exchange believes that the proposed rule change is consistent with the requirements of the Act, and, in particular, with section 6(b)(5) in that the warrants are designed to prevent fraudulent and manipulative acts and practices and to promote just and equitable principles of trade, and are not designed to permit unfair discrimination between customers, issuers, brokers or dealers.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change imposes no burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Comments on the proposed rule change were neither solicited nor received by the Exchange.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by June 1, 1990.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: May 4, 1990.

Jonathan G. Katz,

Secretary.

[FR Doc. 90-10991 Filed 5-10-90; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-17470; 811-5350]

Imperial Portfolios, Inc.; Notice of Application

May 4, 1990.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the "1940 Act").

APPLICANT: Imperial Portfolios, Inc.

RELEVENT 1940 ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company under the 1940 Act.

FILING DATE: The application on Form N-8F was filed on January 16, 1990.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on May 31, 1990, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street N.W. Washington, D.C. 20549. Applicant, 9275 Sky Park Court, San Diego, California 92123.

FOR FURTHER INFORMATION CONTACT: Robert B. Carroll, Staff Attorney, at (202) 272-3043, or Jeremy N. Rubenstein, Branch Chief, at (202) 272-3023 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch or by contacting the SEC's commercial copier at (800) 231-3282 (in Maryland (301) 258-4300).

APPLICANT'S REPRESENTATIONS:

1. The applicant is registered as an open-end management investment company under the 1940 Act and organized as a corporation under Maryland law. The applicant filed a registration statement on Form N-1A on October 5, 1987 with respect to an indefinite number of shares of its common stock, which registration statement became effective on February 23, 1988. The applicant commenced a public offering of its shares on March 4, 1988.

2. The applicant had six series of shares: U.S. Government Portfolio, High Grade Corporate Bond Portfolio, California Tax-Free Portfolio, High Yield Portfolio, S&P 100 Portfolio, and High Yield Fund for Financial Institutions (the "Institutional Fund"). The applicant's principal underwriter and distributor was First Imperial Investor Services, Inc. First Imperial Investor Advisors, Inc. was the investment adviser for all series except the Institutional Fund. Caywood-Christian Capital Management was the Fund's sub-adviser for the High Grade Portfolio and High Yield Portfolio series and the investment adviser for the Institutional Fund.

3. The applicant's board of directors, including a majority of the disinterested directors, approved the reorganization of each series (as described below) except the Institutional Fund with certain series of Olympus Funds Trust ("Olympus Trust") by unanimous written consent on September 27, 1989. The shareholders of each of such series approved the reorganization of the respective series by the affirmative vote of more than a majority of outstanding shares of such series as required under Maryland law.

4. All of the assets of the U.S. Government Portfolio and the High Grade Corporate Bond Portfolio were sold in separate reorganizations to Olympus U.S. Government Plus Fund, a series of Olympus Trust, in exchange for shares of beneficial interest of Olympus U.S. Government Plus Fund and the assumption of certain liabilities by Olympus U.S. Government Plus Fund. All of the assets of the California Tax-Free Portfolio were sold to the Olympus Tax-Exempt California Fund, a series of Olympus Trust, in exchange for shares of beneficial interest of Olympus Tax-Exempt California Fund and the assumption of certain liabilities by Olympus Tax-Exempt California Fund. All of the assets of the S&P 100 Portfolio were sold to Olympus Equity Plus Fund, a series of Olympus Trust, in exchange for shares of beneficial interest of Olympus Equity Plus Fund and the assumption of certain liabilities by Olympus Equity Plus Fund. All of the assets of the High Yield Portfolio were sold to the Olympus Premium Income Fund, a series of Olympus Trust, in a taxable transaction in exchange for shares of beneficial interest of Olympus Premium Income Fund and the assumption of certain liabilities by Olympus Premium Income Fund. The reorganization of the High Yield Portfolio was taxable because the High Yield Portfolio liquidated its investments prior to the closing date of the reorganization. Such liquidation was effected because most of the portfolio securities held by the High Yield Portfolio were not eligible investments for Olympus Premium Income Fund. The applicant's board of directors concluded that participation in the reorganization was in the best interest of the shareholders of the High Yield Portfolio because the board had been advised that it would be very difficult to locate another investment management firm and distributor willing to provide services to the High Yield Portfolio or to locate another investment company to acquire the assets in a tax-free reorganization. In addition, either a liquidation of the High Yield Portfolio and the distribution of the assets to the shareholders or a redemption of shares by a shareholder would have had substantially similar net tax consequences as the reorganization, but the shareholders of the High Yield Portfolio would not have received the benefit, made possible by the reorganization, of the exchange for shares of Olympus Premium Income Fund without payment of a sales load.

5. The number of shares of each of the series of Olympus Trust received by each series of the applicant was determined on the basis of the relative net asset value per share and the aggregate net assets of the series of Olympus Trust and the series of the applicant involved in each of the reorganizations, using the valuation methods of the respective series of Olympus Trust. Shares received by each series of the applicant were distributed pro rata to the shareholders of record of the series of the applicant involved in the applicable reorganization as of the date of the closing of the such reorganization.

6. The Board of Directors of the applicant, including a majority of the distinterested directors, approved the liquidation of the Institutional Fund at a regular meeting of the board of directors held on September 7, 1989. The sole shareholder of the Institutional Fund approved the liquidation of such fund by written consent on October 23, 1989. All of the assets remaining after satisfaction of the Institutional Fund's liabilities were distributed to its sole shareholder as of October 27, 1989.

7. None of the series of the applicant has retained any asset and none of such series has any known liability that has not been satisfied or assumed by another investment company as part of the reorganizations.

8. Each of the parties to the reorganizations described above paid its own expenses, approximating $12,000 each, incurred in connection with the reorganizations. The expenses incurred in connection with the liquidation of the Institutional Fund were paid by the sole shareholder of such fund.

9. The applicant is not a party to any litigation or administration proceeding. There are no shareholders of the applicant.

10. The applicant is not engaged in and does not propose to engage in any activities other than those necessary to wind up its affairs.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 90-10994 Filed 5-10-90; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 35-25084]

Filings Under the Public Utility Holding Company Act of 1935 ("Act")

May 4, 1990.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons ae referred to the applicaton(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by May 29, 1990 to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant application(s) and/or declaration(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Granite State Electric Company (70-7734)

Granite State Electric Company ("Granite"), 33 West Lebanon Road, Lebanon, New Hampshire 03766, an electric public-utility subsidiary company of New England Electric System, a registered holding company, has filed an application-declaration under sections 6(a), 7, 9(a) and 10 of the Act and Rule 50(a)(5) thereunder.

Granite proposes to, on or before December 31, 1991: (1) issue and sell a long-term note ("Note"), at a rate not to exceed 12 percent, in an aggregate principal amount not to exceed $5 million, with a maturity of 1 to 30 years; or (2) in the alternative, to engage in one or more interest rate protection mechanisms ("Rate Mechanisms"), at a fixed or capped rate of interest of not more than 12 percent per annum, in an amount not to exceed $5 million, for a term not to exceed 10 years.

The terms of the proposed Note would not be in accordance with the *Modification of Policies Regarding Redemption Provisions of Long-Term Debt Securities Issued and Sold Under the Holding Company Act* (HCAR No. 16369, May 8, 1969) ("Policy") because Granite proposes to permit the Note to be noncallable for up to ten years. Granite requests authority to deviate from the Policy.

Granite also requests an exception from the competitive bidding requirements of Rule 50 under subsection (a)(5) thereunder with respect to the Note and the Rate Mechanisms. Granite seeks authorization to begin preliminary negotiations regarding the Notes and Rate mechanisms, including retaining an investment banking firm and/or negotiating with potential lenders, and to solicit quotes and negotiate Rate Mechanisms. It may do so.

National Fuel Gas Company, et al. (70-7745)

National Fuel Gas Company ("National"), 30 Rockefeller Plaza, Suite 4545, New York, New York 10112, a registered holding company, and its wholly owned subsidiary companies, Seneca Resources Corporation ("Seneca") and National Fuel Gas Distribution Corporation ("Distribution"), each located at 10 Lafayette Square, Buffalo, New York 14203, have filed an application-declaration under sections 6(a), 7, 9(a), 10 and 12(b) of the Act and Rules 45 and 50(a)(5) thereunder.

National proposes to issue and sell prior to April 30, 1992, in one or more transactions, an aggregate of not to exceed 2 million authorized but unissued shares of its Common Stock, no par value ("Common Stock"), under an exception from the competitive bidding requirements of Rule 50 under subsection (a)(5) thereunder. National requests that it be authorized to undertake negotiations with respect to the issuance and sale of the Common Stock. It may do so.

In addition, National proposes to use the proceeds from the issuance and sale of Common Stock to make capital contributions through April 30, 1992 to Seneca in an amount, when combined with its borrowings through the National money pool (HCAR No. 25013, December 27, 1989), not to exceed $125 million, and Distribution in an amount not to exceed $50 million. Seneca and Distribution intend to apply such amounts (i) to reduce their outstanding short-term borrowings (HCAR No. 25013, December 27, 1989), (ii) for exploration and development and/or construction programs and/or (iii) for general corporate purposes.

Furthermore, Seneca will apply such amounts to make capital expenditures only in connection with its working interest in various oil and gas leases in various prospective areas ("Prospect Areas") that have been defined as of November 15, 1988. Such proceeds will be used by Seneca to maintain, increase, or protect its investment in currently owned oil and gas leases through the payment of delay rentals, the acquisition of minor lease acreage to complete lease blocks or Prospect Areas for the acquisition of undivided interests in those lease blocks or Prospect Areas that were currently underway as of November 15, 1988, or the drilling of wells. Only wells that are deemed to be economically justified will be drilled when considering the added capital benefits to be derived therefrom versus the loss arising from the relinquishment of the lease. In addition, funds may be utilized for the construction of production facilities on Seneca's currently owned properties, or facilities designed to provide access for gas volumes to be delivered to Distribution's service territory. Seneca states that approximately $13 to $15 million is necessary for this purpose. Seneca further states that no proceeds will be utilized to make any expenditures in new exploration areas and that, to the extent that Seneca desires to make any capital expenditure in new exploration areas, Seneca will seek further authorization from the Commission.

The Columbia Gas System, Inc. (70-7748)

The Columbia Gas System, Inc. ("Columbia"), 20 Montchanin Road, Wilmington, Delaware 19807, a registered holding company, has filed an application-declaration pursuant to Sections 6(a) and 7 of the Act and Rules 50 and 50(a)(5) thereunder.

Columbia proposes to issue and sell, in one or more transactions through December 31, 1991, up to: (1) a principal amount of $200 million of debentures ("Debentures"), with maturities of up to thirty years; (2) $200 million of medium-term notes ("MTNs"), with maturities of up to thirty years; or (3) 3 million shares of common stock, $10 par value per share. The issuance and sale of Debentures, MTNs or Common Stock, will not exceed $200 million in gross offering proceeds. The proceeds from the sales of the Debentures, MTNS, or Common Stock will be added to the general fund of Columbia and will be used to finance, in part, the capital expenditures of Columbia's subsidiary companies. The balance of funds required is expected to be obtained, principally, from internal cash generation.

The Debentures will be offered either in accordance with the competitive bidding requirements of Rule 50 or in accordance with the alternative procedures authorized by the Statement of Policy, dated September 2, 1982 (HCAR No. 22623). The MTNs will be offered under an exception from the competitive bidding requirements of Rule 50 under subsection (a)(5) thereunder, with the terms and conditions being privately negotiated by Columbia. The Common Stock will be sold in an underwritten issue by competitive bidding, or alternatively, under an exception from the competitive bidding requirements of Rule 50 under subsection (a)(5), through an agent in a continuous "at the market" program or through a negotiated sale to dealers or investors.

Additionally, Columbia proposes that, in issuing prospective Debentures or MTNs, a capitalization test be included in the Indenture between Columbia and Morgan Guaranty Trust Company of New York, as trustee, of June 1, 1961, which would constitute a deviation from the dividend restriction contained in the Statement of Policy Regarding First Mortgage Bonds, as amended (HCAR Nos 13105 and 16369, dated February 16, 1956 and May 8, 1969, respectively). Under the capitalization test, Columbia will not make or authorize any distribution on capital stock if, after giving effect to such distribution, the principal amount of outstanding funded debt would exceed 60% of Columbia's total capitalization.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 90-10992 Filed 5-10-90; 8:45 am]
BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Noise Exposure Map Notice; Receipt of Noise Compatibility Program and Request for Review, Addison Airport, Addison, TX

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its determination that the noise exposure maps submitted by the city of Addison for Addison Airport under the provisions of title I of the Aviation Safety and Noise Abatement Act of 1979 (Public Law 96-193) and 14 CFR part 150 are in compliance with applicable requirements. The FAA also announces that it is reviewing a proposed noise compatibility program that was submitted for Addison Airport under part 150 in conjunction with the noise

exposure maps and that this program will be approved or disapproved on or before October 21, 1990.

EFFECTIVE DATE: The effective date of the FAA's determination on the noise exposure maps and the start of its review of the associated noise compatibility program is April 24, 1990. The public comment period ends June 23, 1990.

FOR FURTHER INFORMATION CONTACT: Donald C. Harris, Department of Transportation, Federal Aviation Administration, Fort Worth, Texas 76193-0612, (817) 624-5609. Comments on the proposed noise compatibility program should also be submitted to the above office.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA finds that the noise exposure maps submitted for Addison Airport are in compliance with applicable requirements of part 150, effective April 24, 1990. Further, the FAA is reviewing a proposed noise compatibility program for that airport which will be approved or disapproved on or before October 21, 1990. This notice also announces the availability of this program for public review and comment.

Under section 103 of title I of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as "the Act"), an airport operator may submit to the FAA noise exposure maps which meet applicable regulations and which depict noncompatible land uses as of the date of submission of such maps, a description of projected aircraft operations, and the ways in which such operations will affect such maps. The Act requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies, and persons using the airport.

An airport operator who has submitted noise exposure maps that are found by the FAA to be in compliance with the requirements of Federal Aviation Regulations (FAR) part 150, promulgated pursuant to title I of the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes for the reduction of existing noncompatible uses and for the prevention of the introduction of additional noncompatible uses.

The city of Addison submitted to the FAA on November 6, 1989, noise exposure maps, descriptions and other documentation which were produced during the FAR part 150 Noise Exposure and Land Use Compatibility Program. It was requested that the FAA review this material as the noise exposure maps, as described in section 103(a)(1) of the Act, and that the noise mitigation measures, to be implemented jointly by the airport and surrounding communities, be approved as a noise compatibility program under section 104(b) of the Act.

The FAA has completed its review of the noise exposure maps and related descriptions submitted by the city of Addison. The specific maps under consideration are Figure 19, Existing Noise Exposure Map—1987 with Existing Land Use (page 45) and Figure 24, Future Noise Exposure Map—1993 with Existing Land Use (page 76) in the submission.

The FAA has determined that these maps for Addison Airport are in compliance with applicable requirements. This determination is effective on April 24, 1990. The FAA's determination on an airport operator's noise exposure maps is limited to a finding that the maps were developed in accordance with the procedures contained in Appendix A of FAR part 150. Such determination does not constitute approval of the applicant's data, information, plans, or a commitment to approve a noise compatibility program or to fund the implementation of that program.

If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on a noise exposure map submitted under section 103 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or in interpreting the noise exposure maps to resolve questions concerning, for example, which properties should be covered by the provisions of section 107 of the Act. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local responsibilities are not changed in any way under part 150 or through FAA's review of noise exposure maps. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the map depicting properties on the surface rests exclusively with the airport operator who submitted those maps, or with those public agencies and planning agencies with which consultation is required under section 103 of the Act. The FAA has relied on the certification by the airport operator, under § 150.21 of FAR part 150, that the statutorily required consultation has been accomplished.

The FAA has formally received the noise compatibility program for Addison Airport, also effective on April 24, 1990. Preliminary review of the submitted material indicates that it conforms to the requirements for the submittal of noise compatibility programs, but that further review will be necessary prior to approval or disapproval of the program. The formal review period, limited by law to a maximum of 180 days, will be completed on or before October 21, 1990.

The FAA's detailed evaluation will be conducted under the provisions of 14 CFR part 150, § 150.33. The primary considerations in the evaluation process are whether the proposed measures may reduce the level of aviation safety, create an undue burden on interstate or foreign commerce, or be reasonably consistent with obtaining the goal of reducing existing noncompatible land uses and preventing the introduction of additional noncompatible land uses.

Interested persons are invited to comment on the proposed program with specific reference to these factors. All comments, other than those properly addressed to local land use authorities, will be considered by the FAA to the extent practicable. Copies of the noise exposure maps, the FAA's evaluation of the maps, and the proposed noise compatibility program are available for examination at the following locations:

Federal Aviation Administration, Airports Division, ASW-600, Fort Worth, Texas 76193-0600

City of Addison, City Manager's Department, Addison, Texas 75001

Questions may be directed to the individual named above under the heading, **FOR FURTHER INFORMATION CONTACT.**

Issued in Fort Worth, Texas, April 24, 1990.

John M. Dempsey,

Manager, Airports Division.

[FR Doc. 90-11014 Filed 5-10-90; 8:45 am]

BILLING CODE 4910-13-M

Approval of Noise Compatibility Program Minneapolis-St. Paul International Airport, Minneapolis, MN

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its findings on the noise compatibility program submitted by the Metropolitan Airports Commission under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Public Law 96-193) and 14 CFR Part 150. These findings are made in recognition of the description of Federal

and nonfederal responsibilities in Senate Report No. 96–52 (1980). On October 4, 1989, the FAA determined that the noise exposure maps submitted by the Metropolitan Airports Commission under Part 150 were in compliance with applicable requirements. On April 2, 1990, the Assistant Administrator for Airports approved the Minneapolis-St. Paul International Airport noise compatibility program, as supplemented and revised by letters from the airport operator dated June 16, 1989 and March 7, 1990. A total of twenty-three measures are included in the Metropolitan Airports Commission's recommended program. Fourteen are listed as Noise Abatement Measures, and nine are listed as Land Use Management Measures. The FAA has approved twelve measures, disapproved four measures pending submission of additional information, gave partial approval/partial disapproval to three measures, and disapproved four measures outright.

EFFECTIVE DATE: The effective date of the FAA's approval of the Minneapolis-St. Paul International Airport noise compatibility program is April 2, 1990.

FOR FURTHER INFORMATION CONTACT: Prescott C. Snyder, Federal Aviation Administration, Great Lakes Region, Airports Division, AGL–611.1, 2300 East Devon Avenue, Des Plaines, Illinois 60018, (312) 694–7538. Documents reflecting this FAA action may be reviewed at this same location.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA has given its overall approval to the noise compatibility program for Minneapolis-St. Paul International Airport, effective April 2, 1990. Under section 104(a) of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as "the Act"), an airport operator who has previously submitted a noise exposure map may submit to the FAA a noise compatibility program which sets forth the measures taken or proposed by the airport operator for the reduction of existing noncompatible land uses and prevention of additional noncompatible land uses within the area covered by the noise exposure maps. The Act requires such programs to be developed in consultation with interested and affected parties including local communities, government agencies, airport users, and FAA personnel.

Each airport noise compatibility program developed in accordance with Federal Aviation Regulations (FAR) Part 150 is a local program, not a Federal program. The FAA does not substitute its judgment for that of the airport proprietor with respect to which measures should be recommended for action. The FAA's approval or disapproval of FAR Part 150 program recommendations is measured according to the standards expressed in Part 150 and the Act, and is limited to the following determinations:

a. The noise compatibility program was developed in accordance with the provisions and procedures of FAR Part 150;

b. Program measures are reasonably consistent with achieving the goals of reducing existing noncompatible land uses around the airport and preventing the introduction of additional noncompatible land uses;

c. Program measures would not create an undue burden on interstate or foreign commerce, unjustly discriminate against types or classes of aeronautical uses, violate the terms of airport grant agreements, or intrude into areas preempted by the Federal Government; and

d. Program measures relating to the use of flight procedures can be implemented within the period covered by the program without derogating safety, adversely affecting the efficient use and management of the navigable airspace and air traffic control systems, or adversely affecting other powers and responsibilities of the Administrator prescribed by law.

Specific limitations with respect to FAA's approval of an airport noise compatibility program are delineated in FAR part 150, section 150.5 Approval is not a determination concerning the acceptability of land uses under Federal, state, or local law. Approval does not by itself constitute an FAA implementing action. A request for Federal action or approval to implement specific noise compatibility measures may be required, and an FAA decision on the request may require an environmental assessment of the proposed action. Approval does not constitute a commitment by the FAA to financially assist in the implementation of the program nor a determination that all measures covered by the program are eligible for grant-in-aid funding from the FAA. Where federal funding is sought, requests for project grants must be submitted to the FAA Minneapolis Airports District Office in Minneapolis, Minnesota.

The Metropolitan Airports Commission submitted to the FAA on October 6, 1987, noise exposure maps, descriptions and other documentation which were subsequently revised February 24, 1988 (minor corrections), May 19, 1989 (revised NEM format), June 16, 1989 (reviewed NCP format) and September 25, 1989 (complete NEM/NCP certifications). This documentation was produced during the Airport Noise Compatibility Planning (Part 150) Study at Minneapolis-St. Paul International Airport from November 1984 through June 1989. The Minneapolis-St. Paul International Airport noise exposure maps were determined by FAA to be in compliance with applicable requirements on October 4, 1989. Notice of this determination was published in the **Federal Register** on October 26, 1989.

The Minneapolis-St. Paul International Airport study contains a proposed noise compatibility program comprised of actions designed for phased implementation by airport management and adjacent jurisdictions from the date of study completion to the year 2004. It was requested that the FAA evaluate and approve this material as a noise compatibility program as described in section 104(b) of the Act. The FAA began its review of the program on October 4, 1989 and was required by a provision of the Act to approve or disapprove the program within 180 days (other than the use of new flight procedures for noise control). Failure to approve or disapprove such program within the 180-day period would have been deemed to be an approval of such program.

The submitted program, as supplemented and revised by letters from the airport operator dated June 16, 1989 and March 7, 1990 contained twenty-three proposed measures for noise mitigation on and off the airport. The FAA completed its review and determined that the procedural and substantive requirements of the Act and FAR Part 150 have been satisfied. The overall program, therefore, was approved by the Assistant Administrator for Airports effective April 2, 1990.

Fourteen of the twenty-three measures submitted were listed as "Noise Abatement Measures". Three of these noise abatement measures were designed to reduce the number of Stage 3 aircraft. The measures included a noise budget, which was approved as a voluntary measure, but disapproved as a mandatory measure; and measures exempting Stage 3 aircraft from noise abatement flight tracks and negotiating a user fee to be levied on the landing of Stage 2 aircraft. The latter two measures were disapproved pending the submission of additional/updated information. Three other noise abatement measures were designed to increase use of the Preferential Runway System. One of these measures was the relocation of Runway 4/22, which was

approved in concept. The other two measures to increase use of the Preferential Runway System included providing incentives for general aviation uses to relocate to other airports, which was disapproved pending submission of additional information, and assigning propeller aircraft to underutilized runways when the PRS is in use, which was disapproved. Two more measures of the fourteen noise abatement measures dealt with restricting night operations. These measures were approved as voluntary measures but as mandatory measures were disapproved pending the submission of additional information. Finally, six of the noise abatement measures dealt with flight tracks and other miscellaneous measures. The three flight track measures related to changes to and/or tests of departure procedures for Runways 22, 11L, and 11R. All of these measures were disapproved. Two of the three other miscellaneous measures included enforcement of a nighttime run-up policy, and improving the monitoring and enforcement of all noise abatement measures. They both were approved. However, a third measure calling for installation of a microwave landing system on Runway 11L was disapproved.

The other nine of the twenty-three measures submitted are listed as "Land Use Management Measures", all of which were approved. Of these nine measures, five were preventative measures including a public information program, changes in the zoning/building codes and amending land use plans. The other four land use management measures are corrective measures such as acquiring/guaranteeing purchase of noise impacted homes and soundproofing of homes, schools and other public buildings.

These determinations are set forth in detail in a Record of Approval endorsed by the Assistant Administrator for Airports on April 2, 1990. The Record of Approval, as well as other evaluation materials and documents which comprised the submittal to FAA are available for review at the following locations:

Federal Aviation Administration, 800 Independence Avenue, SW., Room 617, Washington, DC 20591

Federal Aviation Administration, Great Lakes Region, 2300 East Devon Avenue, Room 261, Des Plaines, Illinois 60018

Federal Aviation Administration, Minneapolis Airports District Office, 6020 28th Avenue South, Room 102, Minneapolis, Minnesota 55450

Metropolitan Airports Commission, West Terminal Area, Minneapolis-St. Paul International Airport, 6040 28th Avenue South, Minneapolis, Minnesota 55450

Questions may be directed to the individual named above under the heading, **"FOR FURTHER INFORMATION CONTACT"**.

Issued in Des Plaines, Illinois, April 11, 1990.

Henry A. Lamberts,

Acting Manager, Airports Division Great Lakes Region.

[FR Doc. 90-11015 Filed 5-10-90; 8:45 am]

BILLING CODE 4910-13-M

[Summary Notice No. PE-90-20]

Petitions for Exemption; Summary and Disposition

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before May 31, 1990.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-10), Petition Docket No. _____, 800 Independence Avenue SW., Washington, DC 20591.

FOR FURTHER INFORMATION: The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-10), room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267-3132.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of part 11 of the Federal Aviation Regulations (14 CFR part 11).

Issued in Washington, DC, on May 2, 1990.

Debbie Swank,

Acting Manager, Program Management Staff, Office of the Chief Counsel.

Petitions for Exemption

Docket No.: 26190.
Petitioner: Barry T. Borell.
Sections of the FAR Affected: 14 CFR 121.383(c).
Description of Relief Sought: To allow petitioner to serve as a pilot of an aircraft engaged in air carrier operations under Part 121 after his 60th birthday.

Docket No.: 26196.
Petitioner: Eastern Air Lines, Inc.
Sections of the FAR Affected: 14 CFR 121.358
Description of Relief Sought: To extend the compliance date by which windshear equipment must be installed.

Dispositions of Petitions

Docket No.: 20044.
Petitioner: Air Transport Association of America.
Sections of the FAR Affected: 14 CFR 61.63 (b) and (c) and 121.437(c).
Description of Relief Sought: To extend Exemption No. 2965, as amended, that allows pilots of petitioner's member airlines and any part 121 certificate holder to be issued an additional category and class rating to that person's pilot certificate, subject to certain conditions and limitations.
Grant, April 25, 1990, Exemption No. 2965F.

Docket No.: 20406.
Petitioner: Lockheed Aeronautical Systems Company.
Sections of the FAR Affected: 14 CFR 25.1303(c)(1)
Description of Relief Sought/Disposition: To amend Exemption No. 3084B that permits certification of Lockheed Model L-1011-385-1-15 airplanes, serial numbers 193U-1201 and 193U-1203, with an overspeed warning tolerance 6 knots greater than allowed by § 25.1303(c)(1) and a flight manual whose performance section is computed from BCAR rather than FAR criteria (§ 25.1581). The amendment would correct inconsistencies between Exemption No. 3048B and similar exemptions.

Grant, April 19, 1990, Exemption No. 3084C.

Docket No.: 21605.
Petitioner: Alaska Airlines.
Sections of the FAR Affected: 14 CFR 121.574(a)(1) and (3).
Description of Relief Sought/Disposition: To extend

Exemption No. 3850 that allows petitioner to carry and operate oxygen storage and dispensing equipment for medical use by patients requiring emergency medical attention and being carried as passengers when the equipment is furnished and maintained by hospitals within the State of Alaska.

Grant, April 20, 1990, Exemption No. 3850C.

Docket No.: 25336.

Petitioner: United Air Lines Inc.

Sections of the FAR Affected: 14 CFR 121.697(a)(3) and 121.709(b)(3).

Description of Relief Sought/ Disposition: To amend Exemption No. 5121 that allows petitioner to use a computer-printed name of a qualified person in lieu of their physical signature on the airworthiness release (Maintenance Release Document (MRD) that is part of the log book carried aboard the aircraft operated by the petitioner. The petitioner has changed the methodology to be used when implementing Exemption No. 5121, and the amendment to the exemption would reflect this change.

Grant, April 24, 1990, Exemption No. 5121A.

Docket No.: 25645.

Petitioner: Hawaiian Airlines.

Sections of the FAR Affected: 14 CFR 108.23

Description of Relief Sought/ Disposition: To allow petitioner, and other similarly situated Part 121 certificate holders, to conduct security training for their crewmembers on the same basis as permitted in § 121.401(b), instead of every 12 calendar months as is presently required.

Denial, April 30, 1990, Exemption No. 5174

Docket No.: 25947.

Petitioner: Embraer—Empresa Brasileira de Aeronautica S.A.

Sections of the FAR Affected: 14 CFR 135.159(a).

Description of Relief Sought/ Disposition: To allow U.S. operators of the CBA-123 airplane to substitute a backup, third attitude indicator for the rate-of-turn indicator prescribed by § 135.159(a)

Grant, April 25, 1990, Exemption No. 5173.

[FR Doc. 90-11018 Filed 5-10-90; 8:45 am]

BILLING CODE 4910-13-M

Research, Engineering and Development Advisory Committee; Tiltrotor Technology Subcommittee

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I), notice is hereby given of a meeting of the Federal Aviation Administration Research, Engineering, and Development Advisory Committee, Tiltrotor Technology Subcommittee, to be held Monday, June 4, 1990. The meeting will take place in the Department of Transportation building, 400 7th Street SW., Washington, DC, room 6200/02/04. The meeting will be begin on Monday, June 4, at 11 a.m. and conclude on Tuesday, June 5, at 5 p.m.

The agenda for this meeting is a review of the Department of Defense-prepared draft response to the Senate Armed Services Committee request for information on the civil potential of tiltrotor technology. The response has been coordinated by the Department of Defense with the Department of Transportation, The Federal Aviation Administration, The National Aeronautics and Space Administration, The Department of Commerce, and industry. The meeting will consist of presentations from government and industry spokespersons, followed by a review of the draft response by the Subcommittee.

Attendance is open to the interested public, but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present oral statements or obtain information should contact Mr. James I. McDaniel, Tiltrotor Technology Subcommittee Executive Secretary, ARD-30, 800 Independence Avenue SW., Washington, DC 20591, telephone (202) 267-8759.

Any member of the public may present a written statement to the Subcommittee at any time.

Issued in Washington, DC on May 4, 1990.

Martin T. Pozesky,

Associate Administrator for System Engineering and Development.

[FR Doc. 90-11016 Filed 5-10-90; 8:45 am]

BILLING CODE 4910-13-M

Federal Aviation Administration

Informal Airspace Meeting; New Hampshire; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction to informal airspace meeting notice.

SUMMARY: The intent of this action is to correct a statement in the original notification of an informal airspace meeting to be held concerning the establishment of an Airport Radar Service Area at Manchester, NH. An error in the original announcement, under meeting procedures, mentioned Bangor, ME as the location of the ARSA. Therefore, in Volume 55, page 14549, paragraph 4, of the **Federal Register** dated April 18, 1990, it should read: Materials related to the proposed Manchester, NH ARSA will be accepted at the meeting from any interested parties. Written materials may also be submitted to the Team until August 15, 1990.

FOR FURTHER INFORMATION CONTACT: Eileen Seaman, System Management Branch, Air Traffic Division, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273-7132.

Issued in Burlington, MA on April 23, 1990.

Robert A. Ferreira,

Acting Manager, Air Traffic Division, New England Region.

[FR Doc. 90-11017 Filed 5-10-90; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

May 4, 1990.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-0609.

Form Number: 1285C, 1285 (DO/SC) (C).

Type of Review: Extension.

Title: Problem Resolution Program; Follow-Up Letter.

Description: After a taxpayer problem is resolved, follow-up comments are needed to evaluate individual case processing, monitor taxpayer satisfaction, and to provide a form for the taxpayer to comment or suggest improvements on the program. Letter 1285 is used for this purpose.

Respondents: Individuals or households, Farms, Businesses or other for-profit.

Estimated Number of Respondents: 15,000.

Estimated Burden Hours Per Response: 20 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 3,000 hours.

Clearance Officer: Garrick Shear, (202) 535–4297, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf, (202) 395–6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 90–10980 Filed 5–10–90; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF VETERANS AFFAIRS

Veterans' Advisory Committee on Rehabilitation; Meeting

The Department of Veterans Affairs gives notice that a meeting of the Veterans' Advisory Committee on Rehabilitation, authorized by 38 U.S.C., 1521, will be held on June 5 and 6, 1990, from 9 a.m. to 5 p.m. and on June 7, 1990 from 9 a.m. to 12 noon in Room 1010 of the Department of Veterans Affairs Central Office, 810 Vermont Avenue NW., Washington, DC 20420. The purpose of the meeting will be to review the administration of veterans' rehabilitation programs and to render viable recommendations to the Secretary.

The meeting will be open to the public up to the seating capacity of the conference room. Due to the limited seating capacity, it will be necessary for those wishing to attend to contact Theresa Boyd, Executive Secretary, Veterans' Advisory Committee on Rehabilitation at (202) 233–6493 prior to May 25, 1990.

Interested persons may attend, appear before, or file statements with the Committee. Statements, if in written form, may be filed before or within 10 days after the meeting. Oral statements will be heard at 2:30 p.m. on June 5, 1990.

Dated: May 1, 1990.

By direction of the Secretary.

Laurence M. Christman,

Executive Assistant.

[FR Doc. 90–11013 Filed 5–10–90; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 55, No. 92
Friday, May 11, 1990

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: Monday, May 7, 1990, 11:00 a.m.

LOCATION: Room 556, Westwood Towers, 5401 Westbard Avenue, Bethesda, Maryland.

STATUS: Closed to the Public.

MATTERS TO BE CONSIDERED:

Enforcement Matter OS# 5454

The staff and the Commission will discuss issues related to enforcement matter OS# 5454.

The Commission decided by unanimous vote that agency business required scheduling this meeting without the normal seven days notice.

For a Recorded Message Containing the Latest Agenda Information, call: 301-492-5709

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207; 301-492-6800.

Dated: May 7, 1990.

Sheldon D. Butts,

Deputy Secretary.

[FR Doc. 90-11184 Filed 5-9-90; 2:19 pm]

BILLING CODE 6355-01-M

LEGAL SERVICES CORPORATION

Presidential Search Committee

Notice

TIME AND DATE: A meeting of the Presidential Search Committee will be held on May 20, 1990. The meeting will commence at 1:00 p.m.

PLACE: Hyatt Regency Crystal City, 2799 Jefferson Davis Highway, Potomac I & II, Arlington, VA 22202, (703) 418-1234.

STATUS OF MEETING: Open [A portion of the meeting may be closed subject to the recorded vote of a majority of the Board of Directors to discuss matters related to Presidential Search as authorized under the Government in the Sunshine Act [5 U.S.C. 552b (c) (2), (6), and (9)(B) and 45 CFR 1622.5 (a), (e), and (g)]].

MATTERS TO BE CONSIDERED: A portion of the meeting may be closed for the reasons cited above, subject to an advance recorded vote of a majority of the Board of Directors.

1. Matters Related to Presidential Search.

(a) Review of Resumes.
(b) Review of Procedures.
(c) Review of Standards/Qualifications.

CONTACT PERSON FOR MORE INFORMATION: Maureen R. Bozell, Executive Office, (202) 863-1839.

Date Issued: May 9, 1990.

Maureen R. Bozell,

Corporation Secretary.

[FR Doc. 90-11207 Filed 5-9-90; 3:44 pm]

BILLING CODE 7050-01-M

RESOLUTION TRUST CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that on Tuesday, May 8, 1990, at 2:22 p.m., the Board of Directors of the Resolution Trust Corporation met in closed session to consider matters relating to the resolution of thrift institutions.

In calling the meeting, the Board determined, on motion of Director C.C. Hope, Jr. (Appointive), seconded by Director Robert L. Clarke (Comptroller of the Currency), concurred in by Chairman L. William Seidman, and Director T. Timothy Ryan, Jr. (Director of the Office of Thrift Supervision), that corporation business required its consideration of the matters on less than seven days notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(8), (c)(9)(A)(ii) and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552B).

The meeting was held in the Board Room of the FDIC Building located at 550 17th Street NW., Washington, DC.

Dated: May 9, 1990.

Resolution Trust Corporation.

John M. Buckley, Jr.,

Executive Secretary.

[FR Doc. 90-11168 Filed 5-9-90; 8:45 am]

BILLING CODE 6714-01-M

STATE JUSTICE INSTITUTE

TIME AND DATE: 9:00 a.m. to 3:00 p.m., May 18, 1990.

PLACE: Hilton Palacio del Rio, 200 South Alamo Street, San Antonio, Texas 78205

STATUS: The meeting will be open to the public, except for personnel matters.

MATTERS TO BE CONSIDERED:

Portions Open to the Public

Consideration of concept papers and applications submitted for funding.

Portions Closed to the Public

Discussion of internal personnel matters.

CONTACT PERSON FOR MORE INFORMATION: David I. Tevelin, Executive Director, State Justice Institute, 120 South Fairfax Street, Alexandria, Virginia 22314, (703) 684-6100.

David I. Tevelin,

Executive Director.

[FR Doc. 90-11116 Filed 5-8-90; 4:21 p.m.]

BILLING CODE 6820-SC-M

Corrections

Federal Register
Vol. 55, No. 92
Friday, May 11, 1990

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[SW-FRL-3754-3]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Proposed Exclusion

Correction

In proposed rule document 90-8397 beginning on page 13556, in the issue of Wednesday, April 11, 1990, make the following corrections:

1. On page 13557, in the first column, under **ADDRESSES**, in the fourth line, "(OS-205)," should read "(OS-305),".

2. On the same page, in the second column, in the second complete paragraph, in the fifth line, "are" should read "were".

3. On page 13558, in the first column, in the first complete paragraph, in the 10th line, "collecting" should read "collected".

4. On page 13560, in the first column, in the first paragraph, in the first line, "2,4-" should read "2,4-D".

5. On the same page, in the same column, in the sixth line from the bottom, "shredder" should read "shredded".

6. On the same page, in the second column, in the fourth line, "dibenzo-o-dioxins" should read "dibenzo-p-dioxins".

7. On page 13561, in the second column, in the first complete paragraph, in the third line, "ADPC&E" should read "ADPC&E's".

8. On the same page, in the third column, in the "Table 7", after the fourth entry (Chromium) insert "Cyanide".

9. On the same page, in the same column, the third heading should read *Appendix VIII Constituents Likely Present in Untreated Wastes:*

10. On page 13562, in the first column, in "Table 7", in the fifth entry, "Naphthalene" was misspelled.

11. On the same page, in the same column, in the first paragraph, in the third line, "waste" should read "wastes".

12. On the same page, in the same column, in the last paragraph, in the second line, after "spray" insert "is".

13. On the same page, in the second column, in the third line from the bottom, "worse-case" should read "worst-case".

14. On page 13563, in the second column, ninth line from the bottom, "(2,4-5, DDE)" should read "(2,4-D, DDE)".

15. On the same page, in the same column, in the fourth line from the bottom, "those" should read "these".

16. On page 13564, in the first column, in the first complete paragraph, in the fifth line, "tetrachlorophenol" was misspelled.

17. On the same page, in the second column, in the table, the seventh entry in the second column should read "0.01".

18. On the same page, in the same column, in the paragraph following the table, in the 13th line, "chlorinated" should read "Chlorinated".

19. On the same page, in the third column, in the sixth line, "PQL" should read "PQLs".

20. On the same page, in the same column, in the first complete paragraph, in the seventh line "until" was misspelled.

21. On the same page, in the same column, in the table, in the fourth line from the end "Trichlorophenol" was misspelled.

22. On the same page, in the same column, in the last paragraph, in the next to last line, after "tetrachlorodibenzo-" insert "p-".

BILLING CODE 1505-01-D

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket Nos. 89-133, et al.]

Radio Broadcasting Services; Various Locations

Correction

In rule document 90-7915 beginning on page 12830 in the issue of Friday, April 6, 1990, make the following correction:

§ 73.202 [Corrected]

On page 12831, in the first page-column, in the table, under Alaska, in the third table-column, in the sixth entry, "169A" should read "269A".

BILLING CODE 1505-01-D

federal register

Friday
May 11, 1990

Part II

Department of Health and Human Services

Office of Human Development Services

Availability of FY 1990 Funds and Request for Applications; Drug Abuse Prevention Program for Runaway and Homeless Youth; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Human Development Services

[Program Announcement No. 13657-902]

Availability of FY 1990 Funds and Request for Applications: Drug Abuse Prevention Program for Runaway and Homeless Youth

AGENCY: Administration for Children, Youth and Families (ACYF), Office of Human Development Services (OHDS).

ACTION: Announcement of the availability of financial assistance and request for applications for drug abuse prevention programs for runaway and homeless youth.

SUMMARY: The Family and Youth Services Bureau of the Administration for Children, Youth and Families announces the availability of funds for competing discretionary grants for the Drug Abuse Prevention Program for Runaway and Homeless Youth. The purpose of this program is to provide improved and expanded drug abuse prevention and reduction services to runaway and homeless youth.

This announcement contains the grant application process for three priority areas: A) Comprehensive Service Projects; B) Local Community and Statewide Impact Projects; and C) Demonstration Projects for Increased Services to Minority Youth, Services to Older Homeless Youth in Transition to Independent Living Programs, and Adolescent Pregnancy Projects.

Approximately thirteen million dollars ($13,000,000) is available to support grant awards under this program announcement.

DATES: The closing date for receipt of grant applications is July 2, 1990.

ADDRESSES: Address applications to: Drug Abuse Prevention Program for Runaway and Homeless Youth, Department of Health and Human Services, Office of Human Development Services, Grants and Contracts Management Division, Room 345–F.2 Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201.

FOR FURTHER INFORMATION CONTACT: Frank Fuentes, Director, Program Support Division, Family and Youth Services Bureau, Administration for Children, Youth and Families, P.O. Box 1182, Washington, DC 20013, (202) 245–0078.

SUPPLEMENTARY INFORMATION:

Part I. General Information

A. *Program Purpose:* Section 3511 of Public Law 100–690, the Anti-Drug Abuse Act of 1988 (Act), established the Drug Abuse Education and Prevention Program for Runaway and Homeless Youth. The specific purposes of this Program are to:

1. Provide individual, family, and group counseling to runaway youth and their families and to homeless youth for the purpose of preventing or reducing the illicit use of drugs by such youth;
2. Develop and support peer counseling programs for runaway and homeless youth related to the illicit use of drugs;
3. Develop and support community education activities related to the illicit use of drugs by runaway and homeless youth, including outreach to individual youth;
4. Provide runaway and homeless youth in rural areas with assistance (including the development of community support groups) related to the illicit use of drugs;
5. Provide information and training regarding issues related to the illicit use of drugs by runaway and homeless youth to individuals involved in providing services to these youth;
6. Support research on illicit drug use by runaway and homeless youth, the effects on such youth of drug abuse by family members, and any correlation between such use and attempts at suicide; and
7. Improve the availability and coordination of local services related to drug abuse for runaway and homeless youth.

The overall purpose of the Drug Abuse Prevention Program is to help communities address the problem of drug abuse among runaway and homeless youth through the prevention, early intervention, and reduction of drug dependency. The Office of Human Development Services will award grants to support service, coordination and demonstration activities designed to achieve the specific purposes identified in numbers 1 through 7 above. Training and research programs mentioned in #5 and #6 above are being funded separately from this announcement. While funds are available for drug treatment referral as a project component, there is no provision in the statute for the direct provision of drug treatment services.

B. *Definitions:* For the purposes of this program announcement, the following definitions apply:

(1) *Drug* means a beverage containing alcohol; a controlled substance; or a controlled substance analogue.

(2) *Illicit* means unlawful or injurious.

(3) *Community-based* means located within the community and maintained with community and consumer participation in the planning, operation, and evaluation of its programs.

(4) *Public Agency* means any State, unit of local government, combination of such States or units, or any agency, department, or instrumentality of any of the foregoing.

(5) *State* means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands (Palau).

C. *Background:* The Family and Youth Services Bureau (FYSB) within the Administration for Children, Youth and Families (ACYF) serves adolescents from a population of approximately one million runaway and homeless youth who inhabit the streets of this nation annually. The abuse of drugs has had an increasingly severe impact on this vulnerable group. In 1985, 350,000 youth (including runaway, homeless and other street youth) were arrested for drug abuse violations and other drug related offenses. Reports from shelters, which serve runaway and homeless youth under the provisions of the Runaway and Homeless Youth Act, Title III of the Juvenile Justice and Delinquency Prevention Act of 1974, Public Law 93–415, as amended, indicate a growing drug abuse problem. In 1988, 15.4 percent of the youth entering the shelters indicated a personal drug abuse problem. In addition, 16.6 percent of the youth entering the shelters reported their reason for running away as drug and/or alcohol abuse on the part of their parents. The prevalance of the problem is underscored by the fact that not only are major urban areas reporting an increase in drug use among their client population, but providers in small towns and rural communities are also finding that up to 67 percent of their clients are reporting drug abuse as a primary problem. While there are indications that the use of marijuana among this population is declining, there has been a marked increase in the use of more dangerous and addictive drugs such as cocaine and its derivative crack. There has also been an increase in the abuse of alcohol among younger adolescents. The presence of alcohol is of particular concern because it is often a "gateway" drug to more serious substance abuse.

The street life environment places runaway and homeless youth at a significant risk of involvement in the abuse of illicit drugs and the related

consequence of contracting and transmitting the AIDS virus. The youth entering the shelters today are more disturbed and more difficult to serve due to the increase in substance abuse.

Service providers are concerned about finding solutions to the problem of substance abuse among runaway and homeless youth. Existing prevention, reduction, and treatment services for this client population have been largely fragmented and inadequate. While the projects funded under ACYF's FY 1989 program announcement are beginning to address the problem of fragmentation, many communities still have unmet needs in this area.

The implementation of the Anti-Drug Abuse Act of 1988 provided, for the first time, Federal financial assistance to more thoroughly address the problem of drug abuse prevention among runaway and homeless youth. The Office of Human Development Services made the initial grant awards under Section 3511 of Public Law 100-690 during FY 1989. Under the FY 1989 program announcement, discretionary grant awards were made to 104 agencies and organizations representing 36 States, including Puerto Rico and the District of Columbia. These awards were made to support projects designed to improve or expand existing services; develop networking in rural and other areas with minimal services; develop innovative program models; and provide special services for Native American youth on or near Indian reservations and Alaska Native villages. Given the magntiude of the problem and the continuing need to support communities in their efforts to address the problem, ACYF will continue this program direction under this announcement by increasing the number of grants awarded to focus on the three priority areas contained in the FY 1989 program announcement: A. Comprehensive Service Projects; B. Local Community and Statewide Impact Projects (FY 1989, Networking Projects); and C. Demonstration Projects for Increased Services to Minority Youth, Services to Older Homeless Youth in Transition to Independent Living Programs, and Adolescent Pregnancy Projects.

As mandated by section 3511 of the Act, OHDS awarded a training and technical assistance contract. Under the contract, a prototype drug education curriculum is being development and on-site technical assistance is available to provide youth service workers with the knowledge, techniques, and skills needed to improve the drug abuse prevention services available to runaway and homeless youth.

During FY 1990, a contract will be awarded to study the incidence of illicit drug use among runaway and homeless youth, the effects on such youth of drug abuse by family members and any correlations between such use and attempts at suicide and other harmful or risk taking behavior caused or abetted by drugs. These training and research projects are not a part of this program announcement. However, grantees under this program announcement will be required to fully cooperate with both contractors.

The Office of Human Development Services seeks to expand the availability of knowledge pertaining to effective drug abuse prevention, particularly early intervention methods and service delivery systems for this hard to reach population. All applications should reflect the understanding that drug abuse prevention and reduction cannot be addressed in isolation, particularly in cases where family members, especially parents, are also users of illicit drugs. Where family members are present, their involvement is strongly encouraged as an integral part of the services provided. In addition, OHDS encourages awareness of and sensitivity to the particular needs of ethnic, racial and cultural groups in the development of drug abuse prevention services in minority communities.

The improvement and expansion of direct prevention services and the development of community resources and support for runaway and homeless youth are important activities under this program announcement. Section 3511 of the Act provides for services as well as referrals to drug treatment programs. However, drug treatment itself is not the focus of this program, and will not be supported under this announcement. (Other sections of the Anti-Drug Abuse Act of 1988 support the provision of drug treatment and rehabilitation for the homeless, the medically indigent, pregnant adolescents, and teen parents.) The lack of drug treatment programs in many areas of the country will require applicants under this announcement to develop innovative approaches to securing appropriate treatment for the runaway and homeless youth they serve. This particular type of resource development is strongly encouraged.

The Family and Youth Services Bureau entered into an Interagency Agreement with the Public Health Service, DHHS, to improve access to medical services, including drug treatment for runaway and homeless youth. The Bureau of Health Care Delivery and Assistance (BHCDA) of the Public Health Service, with funds made available under the Stewart B. McKinney Homeless Assistance Act of 1987, awarded 109 grants under the Health Care for the Homeless Program to medical centers across the country to provide primary health care, including drug abuse prevention and treatment, to homeless populations. Applicants may wish to identify individual centers and, where possible, access and coordinate with these resources. For information, contact: Mr. James Gray, BHCDA, Room 7A-22, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-2512.

For information concerning the nationwide system of Health Care for the Homeless Programs, applicants may also wish to contact the National Clearinghouse for Primary Care Information at (703) 821-8955.

The Federal government is currently supporting numerous activities to prevent substance abuse and the spread of AIDS among runaway and homeless youth. The Office of Substance Abuse Prevention (OSAP) and the National Institute on Drug Abuse (NIDA) are sources of information about projects at the local and national levels and for existing prevention materials and program curricula. The Office of Human Development Services encourages applicants to coordinate their proposed activities with projects supported by OSAP and NIDA, wherever possible and practical, to reduce potential duplication. This collaboration is especially encouraged in activities to address Purposes #3, #4, and #7 as listed in section A above. Information relating to OSAP and NIDA supported projects may be obtained by contacting:

National Clearinghouse for Alcohol and Drug Information, P.O. Box 2345, Rockville, Maryland 20852, (301) 468-2600.

Alberto Mata, Ph.D., Senior Advisor, Division of Applied Research, Community Research Branch, National Institute on Drug Abuse, Room 9A-30, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-6720.

Rebecca Ashery, Section Chief, Professional Education Section, National Institute on Drug Abuse, Room 10A-54, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-6720.

Under the Drug Abuse Prevention Program, FYSB is pursuing the necessary collaboration among Federal agencies to increase the availability of treatment services as well as the responsiveness of treatment facilities to the drug abuse

problems of runaway and homeless youth.

D. *Eligibility:* The purpose of this announcement is to fund new projects. Any State, unit of local government (or combination of units of local government), public or non-profit private agency, organization, institution, or other non-profit entity (including individuals) is eligible to apply; except that grantees currently funded under the FY 1989 Drug Abuse Prevention Program for Runaway and Homeless Youth (Program Announcement No. 13657–892) are not eligible to apply for financial assistance under this announcement. In instances where more than one agency or individual submits a joint application to coordinate activities under this announcement, one legal entity must be designated as the proposed grantee.

As required by section 3511(b) of the Act, priority will be given to applicants that have experience in providing services to runaway and homeless youth.

Non-profit applicants who have not previously received support from the Office of Human Development Services must submit proof of their non-profit status with their grant application. This can be done either by making reference to the applicant's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations or by submitting a copy of its letter from IRS (IRS Code, sections 501(c)[3] and 501(c)(6)). Non-profit applicants cannot be funded without acceptable proof of this status. Although for-profit entities may participate as sub-grantees to eligible applicants, they do not qualify as applicants under this grant announcement.

Applicants must indicate in their application a willingness to cooperate with the third party contractors funded by ACYF. The contractors will provide training and technical assistance support, conduct site visits to grantees, and conduct an incidence study.

As a condition of any grant awarded under this announcement, each applicant must certify compliance with the application requirements of section 3514(b) of the Anti-Drug Abuse Act by signing the assurance form included in the application package (see Appendix II).

E. *Applicant Share of Project Costs:* A 25 percent non-Federal share ($1 for every $3 of Federal funding), either cash or third party in-kind contributions, or a combination thereof, secured from non-Federal sources, is required of all projects. For example, an applicant who applies for $75,000 in Federal funding must provide $25,000 toward the project, with a total project cost of $100,000. The Office of Human Development Services encourages applicants to propose grantee shares which will be met in cash, as opposed to in-kind contributions. Contributions of more than 25 percent are also encouraged. Applicants which do not provide the required 25 percent share will not be considered for funding.

Part II: Priority Area Descriptions

Applicants are invited to submit proposals that respond to *one* of the following priority areas:

A. Comprehensive Service Projects

Approximately 20 to 30 grants will be awarded under this priority area to improve and/or expand existing services related to preventing or reducing the use of illicit drugs among runaway and homeless youth and their families. In addressing the families of such youth, proposals should include a methodology that considers the impact of the drug abuse problem on the immediate family, extended family and peers that compose the youth's home environment. Applicants must also demonstrate how additional resources will be utilized to expand or improve current service delivery through improved outreach, counseling (individual, family, group, and peer), intake and medical screening, referrals to treatment and the provision of aftercare services. Proposals should show evidence of joint planning with other agencies in the community towards the development of a comprehensive approach to service delivery. Where more than one agency joins to submit a single application, letters of commitment should be included as well as a clearly defined task chart showing the responsibilities and involvement of the designated agencies.

Duration: Not to exceed 24 months, with the possibility of renewal for an additional 12-month period based on the availability of funds and satisfactory performance of the grantee.

Federal Share of Project Costs: Up to $150,000 each year.

B. Local Community and Statewide Impact Projects

Approximately 20 to 30 grants will be awarded under this priority area to address the issues of (1) improved local community-based networking and (2) effective Statewide drug abuse prevention programming for runaway and homeless youth.

1. Local Community Impact Projects

The Office of Human Development Services encourages the development of community support and resources to ensure the provision of quality, coordinated drug abuse prevention and reduction efforts in rural areas and in communities with fragmented or minimal services for runaway and homeless youth. Runaway and homeless youth, as well as service providers, often cite the lack of coordinated community-based services, information resources and difficulty in obtaining treatment services as reasons for sustained illicit drug use. This sub-area encourages the creation of community resource development efforts to address the need for community education, the coordination of existing services for runaway and homeless youth and their families, and the creation of community support groups that specifically address the issue of drug abuse among runaway and homeless youth. Applications should identify current barriers to coordinated services, the continuum of care, and the establishment of successful networks and should propose alternatives to address these barriers. Examples of alternatives which might be unertaken by these networks include the adjustment of priorities among other related service providers, expanded use of the media, promulgation of information in languages and customs indigenous of ethnic communities, and greater use of community forums. Applications should also clearly demonstrate a model of improved service delivery as a result of the better coordination of resources. Proposals must show clear evidence of joint planning and defined responsibilities. Applicants must establish a network of providers, with letters of commitment from each, and should propose innovative models for successfully developing and implementing a network of services that can be replicated in other communities. Uniform case management practices among all providers is an example of effective networking as are innovative combinations of services, particularly in geographic areas with minimal resources for runaway and homeless youth.

2. State Impact Projects

There is a need to establish more Statewide networking and program coordination efforts in support of runaway and homeless youth drug abuse prevention services. The Office of Human Development Services *seeks to provide grants for this purpose in States that do not currently have Statewide organizations in support of runaway and homeless youth services.* Applicants proposing State impact projects must

demonstrate their capacity to conduct Statewide networking efforts and must show evidence that they have broad based support from organizations working with or on behalf of runaway and homeless youth.

The Office of Human Development Services will consider projects to enable organizations to expand the existing body of knowledge and/or projects designed to generate additional financial, service or other resources to address runaway and homeless youth drug abuse prevention efforts Statewide. To be considered for a State impact grant, the applying organization must have the capacity to undertake projects that are Statewide in magnitude.

Examples of the types of projects to be conducted under this sub-area include, but are not limited to:

- Projects for Statewide public education campaigns aimed at promoting awareness of runaway and homeless drug abusing youth and their needs. Applications should identify the methods to be used to organize and implement the campaign.
- Projects designed to collect and disseminate Statewide data in support of runaway and homeless youth programming at the State level.
- Projects conducting Statewide assessments of existing service systems and defining what can and should be done to improve them.
- Projects that develop and implement Statewide strategies to increase coordination and networking among runaway and homeless youth service providers who are dealing with youth with drug abuse problems.
- Projects that build the capacity of organizations to identify and compete for existing local, State and Federal drug abuse funds to increase services to runaway and homeless youth.
- Projects to assist organizations in gathering data on a Statewide basis on the incidence of drug abuse and the types of drugs involved.

Applicants must clearly indicate in Box 11 of the 424 form which sub-area (i.e., B.1 or B.2) is being addressed in their application.

Duration: Local Community Impact Projects will not exceed 24 months, with the possibility of renewal for an additional 12-month period based on the availability of funds and satisfactory performance of the grantee. State Impact Projects will not exceed 17 months, with the possibility of renewal for an additional 12 month period based on the availability of funds and satisfactory performance of the grantee.

Federal Share of Project Costs: Local Community Impact Project awards will not exceed $150,000 each 12 month period. Grant awards for State Impact Projects will not exceed $50,000 for the 17 month period. The Local Community Impact Projects will support networking activities for the actual delivery of services, while the State Impact Projects will focus on organizing and data gathering activities, hence the difference in the funding levels.

C. Demonstration Projects for Increased Services to Minority Youth, Services to Older Homeless Youth in Transition to Independent Living Programs, and Adolescent Pregnancy Projects

Approximately 10 to 20 grants will be awarded under this priority area to support the development of model approaches for addressing the prevention and reduction of illicit drug use by (1) minority runaway and homeless youth; (2) homeless youth preparing to enter independent living arrangements; and (3) pregnant adolescents among runaway and homeless youth.

The Office of Human Development Services is interested in funding programs in this priority area that have potential for replication or that would add to the existing knowledge base. Therefore, all applications must include a plan for evaluating outcomes and developing appropriate materials which can be widely disseminated.

Under this priority area all applicants must demonstrate collaboration with appropriate agencies and organizations in the conduct of their projects. Applicants should list all organizations that will work on the project and describe their contributions.

1. Minority Youth Projects

Many communities do not have an adequate system for serving runaway and homeless minority youth who are at exceptionally high risk of involvement with illicit drugs. This may be due to a lack of culturally relevant services, inadequate coordination or ineffective outreach. These youth typically come from disadvantaged neighborhoods and/or dysfunctional family environments, have unmet basic needs, health and social problems, and inadequate role models and positive support systems. For many of these youth family reunification is not possible. The Office of Human Development Services is interested in supporting programs that have formal linkages between youth-serving minority organizations and organizations serving runaway and homeless youth and would offer innovative ways to expand and improve services to these youth.

Examples of the types of projects to be conducted under this sub-area may include, but are not limited to:

- Projects which develop innovative outreach and referral approaches to treatment programs which overcome the barriers to treatment often experienced by minority youth such as race, language, and ability to pay for services.
- Projects which develop and demonstrate specific methods for increasing runaway and homeless minority youth access and participation in drug abuse education and prevention programs.
- Projects which develop and implement comprehensive drug-related services and programs which address the specific cultural needs of minority youth.
- Projects which actively involve and educate the parents of minority youth who are receiving runaway and homeless youth drug prevention services.
- Projects designed to promote drug-free lifestyles for minority youth through better outreach, comprehensive assessments and appropriate referrals.
- Projects involving collaborative programming for the provision of comprehensive drug-related support services for minority youth.

2. Innovative Drug Prevention Projects for Older Homeless Youth in Transition to Independent Living Arrangements

For many homeless youth, family reunification is not possible. This problem is compounded by the fact that many of these youth cannot live in a safe environment with a relative and have no other safe living arrangements available to them. The Office of Human Development Services is implementing a new national grant program (under a separate **Federal Register** announcement) to establish and expand transitional living projects for homeless youth who need assistance in making the transition from a homeless lifestyle to one of an independent, fully functioning adult. This youth population has many social problems and their access to needed services is limited. Given the nature of their homeless lifestyle, these youth are at high risk of involvement with illicit drugs. Since operation of this new program is imminent, this sub-area is not intended for programs serving youth living in group homes, foster care, or other stable living environments.

To facilitate the service providers' efforts to help these youth make successful transitions to independent living arrangements, OHDS is interested in funding applications which describe

model approaches to early drug abuse identification, counseling and related support services, and referrals to appropriate treatment services. Applications must contain written letters or other assurances that the project will be conducted in collaboration with transition to independent living programs for homeless youth and other appropriate organizations such as drug and rehabilitation programs.

Examples of the types of projects to be conducted under this priority area include, but are not limited to:

- Models of agency collaboration with drug treatment programs for the provision of drug abuse prevention and treatment services for homeless youth preparing for independent living. The Office of Human Development Services is particularly interested in programs which address the youths' drug abuse problem while, at the same time, maintaining them in a transitional living program.
- Projects focused on the early identification of drug abuse problems and the provision of appropriate pre-treatment services for youth making the transition to independent living.
- Projects designed to provide drug abuse education to youth who are making transitions to independent living arrangements.
- Projects using cost effective methods for the early identification of drug abuse and the provision of appropriate comprehensive services which meet the needs of youth making the transition to independent living.

3. Adolescent Pregnancy Projects

The Office of Human Development Services is concerned about runaway and homeless adolescent females who are pregnant and at high risk of abusing drugs and receiving little or no prenatal or postnatal health care. Of particular concern is the growing incidence of premature and full term infants suffering from illnesses ranging from low-birth weight and its attendant complications to drug addiction and withdrawal as a consequence of the mother's substance abuse during pregnancy.

In the case of homeless and runaway adolescent females, the absence of a stable home environment all but eliminates the likelihood of their receiving vital health care during pregnancy. When compounded by substance abuse, the consequence is often complicated child births, drug-addicted newborns and, sometimes, abandonment of the infant by the mother. This situation is increasingly taxing the health care and social service delivery systems and contributing to the cycle of family dysfunction and separation.

The Office of Human Development Services is interested in supporting projects which demonstrate effective ways of addressing this critical problem through the provision of targeted outreach and supportive services for these adolescents. By supporting projects which address this issue, OHDS hopes to reduce the number of runaway and homeless adolescent females who are unable to secure adequate medical care for themselves during pregnancy and for their children after their birth. The effectiveness of these programs will be enhanced by emphasizing strong community linkages and cooperative efforts among appropriate service providers.

Examples of the type of projects OHDS is interested in supporting include, but are not limited to:

- Programs which focus on the early identification of drug abusing adolescent females among the runaway and homeless youth population and the provision of pregnancy prevention and prenatal education, prenatal and post-natal health care appropriate referrals for drug treatment services.
- Programs which improve coordination and linkages between local runaway and homeless youth service providers and health and drug treatment programs so that the medical needs of this target population are better served.
- Outreach and intervention programs which use responsible community volunteers to identify these high risk youth, assist them in securing pre- and postnatal service, and are willing to maintain supportive contact with such youth during their early parenting years.
- Programs that focus on serving youth who are considered hard to reach due to cultural differences, geographic isolation or other factors.
- Programs designed to bring responsible senior volunteers and high-risk adolescent youth together in mutually supportive roles.
- Programs designed to reduce and eliminate barriers to medical services, such as legal and financial considerations, so that these youth receive the level of medical care necessary to reduce complications during delivery and produce healthy drug-free babies.
- Prevention programs responding to the primary health and drug education needs of this population so that they are able to acquire the life skills necessary for successful living.

Applicants applying for assistance under priority area C must set aside up to 10 percent of their budget, but not less than $10,000, to have an independent evaluation conducted of their program. This evaluation must be conducted by a third party evaluator(s) selected by the applicant. The third party evaluator must assess the accomplishments of the applicant's program and service delivery models. The evaluator will collect data from the applicant and other relevant sources to analyze at a minimum (a) the progress and effectiveness of the project in meeting its intended demonstration goals and objectives; (b) the problems inherent to the service delivery model; (c) the potential for replication of the model; (d) the number and types of youth who were served or could be served by program expansion/replication; and (e) alternative approaches to the dissemination of materials that would facilitate program replication.

The Office of Human Development Services invites the identification of additional issues, to be addressed under the evaluation, which need further development for the effective prevention, intervention and reduction of drug abuse among runaway and homeless youth. Applicants must clearly indicate in Box 11 of the 424 form which of the three sub-areas (i.e., C.1, C.2 or C.3.) is being addressed in their application.

Duration: Not to exceed 17 months, with the possibility of renewal for an additional 12-month period based on the availability of funds and satisfactory performance of the grantee.

Federal Share of Project Costs Up to $212,500 for the initial 17 month period.

Part III: Criteria for Review and Evaluation of Applications

An application must meet all of the eligibility requirements specific to the priority area under which it is being submitted. This includes eligibility of the applicant, duration of the project, 25 percent minimum applicant share, and responsiveness to the purpose of the priority area.

Applications which meet these eligibility requirements will be evaluated by a panel of experts knowledgeable about issues related to runaway and homeless youth and illicit drug use who will comment on and score the applications based on the four criteria listed below.

To ensure the maximum score for each criterion, it is imperative that the program narrative section of the application clearly address each of these four areas. These criteria also incorporate the statutory review criteria

in section 3515(a) of the Anti-Drug Abuse Act.

A. Objectives and Need for Assistance: (20 points)

- Identify the specific purpose(s) of section 3511 of the Anti-Drug Abuse Act that is being addressed by the proposal.
- Pinpoint any relevant physical, economic, social, financial, institutional, or other problems requiring a solution (including the need for additional services for addressing the illicit use of drugs by runaway and homeless youth) in the geographic area(s) that the project is proposed to serve. (Section 3515(a)(5))
- Give the precise location of the project and area(s) to be served by the proposed project (maps or other graphic aids may be attached). Provide a detailed description of the emerging or current status of illicit drug use among runaway and homeless youth and their families in the proposed target area. (Section 3515(a)(2))
- Demonstrate the need for the project and state the principal and subordinate objectives of the project. Supporting documentation or testimonies from concerned interests other than the applicant may be used.
- Describe the innovativeness of the project, i.e., how it incorporates new or innovative techniques; how it builds upon the delivery of existing drug abuse services; how it will expand or improve existing services; and the anticipated impact of this effort on the total range of services provided to runaway and homeless youth.

B. Results or Benefits Expected: (25 points)

- Identify the results and benefits to be derived from the project, especially any increases in the applicant's capacity to provide services to address the illicit use of drugs by runaway and homeless youth; and the extent to which the project will increase the level of services, or will coordinate with other services, in the community.
- Describe any anticipated changes in policy and/or practice among public and private service providers that will result in improved service delivery (e.g., identify any manuals, training curricula or reports, proposed as a project accomplishment).
- Provide justification for the relative cost of the project in relation to its anticipated effectiveness in carrying out the purposes of section 3511 of the Anti-Drug Abuse Act.

C. *Approach:* (35 points)

- Outline a plan of action pertaining to the scope of the project and detail how the proposed work will be accomplished. Cite factors which might accelerate or decelerate the work and your reasons for taking this approach as opposed to others.
- Provide a description of the proposed project, including the activities for accomplishing intervention, prevention, education, client involvement, treatment referral, outreach efforts, and coordination with other agencies.
- Describe any unusual features of the project, such as design or technological innovations, reductions in cost or time, or extraordinary social and community involvements (e.g., how project will be maintained after termination of Federal support).
- List the activities to be carried out in chronological order to show the schedule of accomplishments and their target dates (GANTT or PERT charts may be used for this purpose).
- List each organization, cooperator, consultant, or other key individuals who will work on the project (including the lead agency) along with a short description of the nature of their effort or contribution. In the case of an application submitted by more than one agency, describe the lead agency's role and method for coordinating activities; and the role and responsibility of each member agency. Letters of commitment that show evidence of a joint planning and implementation role in the project must be included. Letters of commitement from appropriate service delivery agencies and community and political organizations that express potential involvement may also be attached.
- Describe the relationship between this project and other work planned, anticipated, or underway with Federal assistance.
- Identify the kinds of data to be collected and maintained, and discuss the criteria to be used to evaluate the results and success of the project. Explain the methodology that will be used to determine if the needs identified and discussed are being met and if the results and benefits identified are being achieved. Provide quantitative projections of the accomplishments to be achieved, if possible.

D. *Staff Background and Experience:* (20 points)

- Present a biographical sketch of the proposed program director with the following information: name, address, telephone number, background, and other qualifying experience for the project.
- List the name, training and background for other proposed key personnel.
- Provide a brief description of the applicant's organizational experience in providing services to runaway and homeless youth. In the case of an application submitted by an individual, demonstrate that a strong connection exists between the individual and community-based agencies or services, and that the individual will have ongoing access to the service population. [Section 3511(b)]

Part IV: The Application Process

A. *Availability of Forms:* All of the forms and instructions needed for submitting an application under this announcement are included in Appendix I. Single sided copies of these forms should be reproduced and used to prepare the application package.

A complete application consists of:

(1) Standard Form 424: Application for Federal Assistance;

(2) Standard Form 424A: Budget Information;

(3) Assurances

(a) Standard Form 424B: Non-Construction Programs;

(b) Drug-Free Workplace Certification;

(c) Debarment Certification;

(d) Certification Regarding Lobbying; and

(e) The Anti-Drug Abuse Act of 1988 Certification.

(4) Program Narrative: A narrative description of the project, organized under the headings which address the four evaluation criteria identified in Part III: (A) Objectives and Need for Assistance; (B) Results or Benefits Expected; (C) Approach;' and (D) Staff Background and Experience.

The program narrative must be typed, double-spaced, on 8½ x 11 inch bond paper. All pages of the narrative (included charts, tables, and maps) must be suquentially numbered, beginning with the "Objective and Need for Assistance" section as page number one. The program narrative must not exceed 25 double-spaced pages.

(5) Project Abstract: A brief (approximately 100 word) description of the project, typed on 8½ x 11 inch bond paper.

(6) Appendices/Attachments: Letters of support, exhibits, and other supporting documents must not exceed ten pages.

B. *Application Submission:* Each application must be signed by an official authorized to act on behalf of the applicant agency, organization, institution, or other entity and to assume responsibility for the obligations imposed by the terms and conditions of any grant awarded.

Applications must be prepared in accordance with the guidance provided in this announcement and the

instructions in the attached application package.

One signed original and two copies of the application, including all attachments, are required.

The priority area (see Part II of this announcement) under which the application is being submitted must be clearly identified in Block 11 of Standard Form 424.

Completed applications must be sent to: Drug Abuse Prevention Program for Runaway and Homeless Youth, Department of Health and Human Services, Office of Human Development Services, Grants and Contracts Management Division, Room 345–F Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201. Hand delivered applications will be accepted at the OHDS Grants and Contracts Management Division Office during the normal working hours of 8:30 a.m. to 5 p.m., Monday through Friday.

C. *Closing Date for the Submission of Applications:* The closing date for receipt of applications under this announcement is July 2, 1990.

1. *Deadlines.* Applications shall be considered as meeting the deadline if they are either:

a. Received on or before the deadline date at the address specified in the application submission section of this announcement; or

b. Sent on or before the deadline date and received in time for the independent review under Chapter 1–62 of the *HHS Grants Administration Manual.* Applicants are cautioned to request a legibly dated U.S. Postal Service postmark or to obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.

2. *Late Applications.* Applications which do not meet the criteria in the above paragraphs are considered late applications. The granting agency will notify each late applicant that its application will not be considered in the current competition.

3. *Extension of Deadline.* The Administration for Children, Youth and Families may extend the deadline for all applicants because of acts of God such as floods, hurricanes, etc. or when there is widespread disruption of the mail. However, if the granting agency does not extend the deadline for all applicants, it may not waive or extend the deadline for any applicant.

D. *Screening of Applications:* All applications will be initially screened to determine conformance with the following requirements:

(1) Deadline for submittal;
(2) Appropriate number of pages;
(3) Identification of priority area;
(4) Signature of authorizing official; and
(5) Federal funding requests not exceeding the limitations set by the priority area.

These preliminary screening requirements will be rigorously enforced. Applications which do not meet these requirements will not be considered in the competition and the applicant will be so informed.

E. *Application Consideration:* Each application will be reviewed and scored against the criteria outlined in Part III of this announcement and its responsiveness to the minimum requirements identified in Part II. The review will be conducted in Washington, DC. Reviewers will be persons knowledgeable about issues relating to runaway and homeless youth and illicit drug use.

The results of the competitive review will be analyzed by Federal staff and will be the primary factor taken into consideration by the Associate Commissioner, Family and Youth Services Bureau who, in consultation with OHDS Regional officials, will recommend to the Commissioner of ACYF programs to be funded. The Commissioner of ACYF will make the final selections. Applications may be funded in whole or in part. Consideration will also be given to ensuring that a variety of geographic areas are served, that projects with different auspices are selected, and that a variety of project designs and models are represented.

Successful applicants will be notified through the issuance of a Financial Assistance Award. The award will state the amount of Federal funds awarded, the purpose of the grant, the terms and conditions of the grant award, the effective date of the grant, the total project period, the budget period, and the amount of the non-Federal matching share.

Organizations whose applications have been disapproved will be notified in writing by the Commissioner of the Administration for Children, Youth and Families.

F. *Paperwork Reduction Act of 1980:* Under the Paperwork Reduction Act of 1980, Public Law 96–511, the Department is required to submit to the Office of Management and Budget (OMB) for review and approval any reporting and recordkeeping requirements and regulations, including program announcements. This program announcement does not contain information collection requirements beyond those approved by OMB.

G. *Executive Order 12372—Notification Process:* This program is covered under Executive Order (E.O.) 12372, "Intergovernmental Review of Federal Programs," and 45 CFR Part 100, "Intergovernmental Review of Department of Health and Human Services Programs and Activities." Under the Order, States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs. All States and territories except Alaska, Idaho, Kansas, Louisiana, Minnesota, Nebraska, Virginia, American Samoa, and Palau have elected to participate in the Executive Order process and have established Single Points of Contact (SPOCs). (See attached list of the Single Points of Contact for each State and Territory included in Appendix II of this announcement.) Applicants from these nine areas need take no action regarding E.O. 12372. Applications for projects to be administered by Federally-recognized Indian Tribes are also exempt from the requirements of E.O. 12372.

Other applicants should contact their SPOC as soon as possible to alert them of the perspective application and receive any necessary instructions. Applicants must submit any required material to the SPOC as early as possible so that the program office can obtain and review SPOC comments as part of the award process. It is imperative that the applicant submit all required materials, if any, to the SPOC and indicate the date of this submittal (or date of contact if no submittal is required) on the SF 424, Block 16a. OHDS will notify the State of any applicant who fails to indicate SPOC contact (when required) on the application form.

SPOCs have 60 days from the grant application deadline date to comment on applications for financial assistance under this program. SPOCs are encouraged to eliminate the submission of routine endorsements as official recommendations. Additionally, SPOCs are requested to differentiate clearly between mere advisory comments and those official State process recommendations which they intend to trigger the "accommodate or explain" rule.

When comments are submitted directly to OHDS, they should be addressed to: Drug Abuse Prevention Program for Runaway and Homeless

Youth, Department of Health and Human Services, Office of Human Development Services, Grants and Contracts Management Division, Room 345–F Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201.

(Catalog of Federal Domestic Assistance Program Number 13.657, Drug Abuse Education and Prevention Program for Runaway and Homeless Youth)

Dated: April 25, 1990.

Wade Horn,

Commissioner, Administration for Children, Youth and Families.

Approved: May 3, 1990.

Mary Sheila Gall,

Assistant Secretary for Human Development Services.

Assurances Required by Section 3514 of the Anti-Drug Abuse Act of 1988

The grantee certifies that, as a condition of the grant, the agency, organization, or individual will meet the following statutory requirements:

(1) provide that such project or activity shall be administered by or under the supervision of the applicant;

(2) provide for the proper and efficient administration of such project or activity;

(3) provide that regular reports on such project or activity shall be submitted to the Office of Human Development Services; and

(4) provide such fiscal control and fund accounting procedures as may be necessary to ensure prudent use, proper disbursement, and accurate accounting of funds received under this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE
APPLICANT ORGANIZATION	DATE SUBMITTED

BILLING CODE 4130-01-M

APPENDIX I

OMB Approval No. 0348-0043

APPLICATION FOR FEDERAL ASSISTANCE

2. DATE SUBMITTED		Applicant Identifier
3. DATE RECEIVED BY STATE		State Application Identifier
4. DATE RECEIVED BY FEDERAL AGENCY		Federal Identifier

1. TYPE OF SUBMISSION:
Application ☐ Construction ☐ Non-Construction
Preapplication ☐ Construction ☐ Non-Construction

5. APPLICANT INFORMATION

Legal Name:	Organizational Unit:
Address *(give city, county, state, and zip code)*:	Name and telephone number of the person to be contacted on matters involving this application *(give area code)*

6. EMPLOYER IDENTIFICATION NUMBER (EIN): ☐☐ – ☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: *(enter appropriate letter in box)* ☐

A. State — H. Independent School Dist.
B. County — I. State Controlled Institution of Higher Learning
C. Municipal — J. Private University
D. Township — K. Indian Tribe
E. Interstate — L. Individual
F. Intermunicipal — M. Profit Organization
G. Special District — N. Other (Specify) _____

8. TYPE OF APPLICATION:
☐ New ☐ Continuation ☐ Revision
If Revision, enter appropriate letter(s) in box(es): ☐ ☐
A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other *(specify)*: _____

9. NAME OF FEDERAL AGENCY:

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: ☐☐ ☐☐☐
TITLE:

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT *(cities, counties, states, etc.)*:

13. PROPOSED PROJECT:		14. CONGRESSIONAL DISTRICTS OF:	
Start Date	Ending Date	a. Applicant	b. Project

15. ESTIMATED FUNDING:		
a. Federal	$	.00
b. Applicant	$	.00
c. State	$	.00
d. Local	$	.00
e. Other	$	.00
f. Program Income	$	.00
g. TOTAL	$	.00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?
a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON
DATE _____
b. NO. ☐ PROGRAM IS NOT COVERED BY E.O. 12372
☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?
☐ Yes If "Yes," attach an explanation. ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED

a. Typed Name of Authorized Representative	b. Title	c. Telephone number
d. Signature of Authorized Representative		e. Date Signed

Previous Editions Not Usable

Standard Form 424 (REV 4-88)
Prescribed by OMB Circular A-102

Authorized for Local Reproduction

INSTRUCTIONS FOR THE SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item: Entry:

1. Self-explanatory.
2. Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable).
3. State use only (if applicable).
4. If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.
5. Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.
6. Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.
7. Enter the appropriate letter in the space provided.
8. Check appropriate box and enter appropriate letter(s) in the space(s) provided:
   - "New" means a new assistance award.
   - "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date.
   - "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.
9. Name of Federal agency from which assistance is being requested with this application.
10. Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.
11. Enter a brief descriptive title of the project. if more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.

Item: Entry:

12. List only the largest political entities affected (e.g., State, counties, cities).
13. Self-explanatory.
14. List the applicant's Congressional District and any District(s) affected by the program or project.
15. Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.
16. Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.
17. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.
18. To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

OMB Approval No. 0348-0044

BUDGET INFORMATION — Non-Construction Programs

SECTION A – BUDGET SUMMARY

Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1.		$	$	$	$	$
2.						
3.						
4.						
5. TOTALS		$	$	$	$	$

SECTION B – BUDGET CATEGORIES

6 Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY				Total (5)
	(1)	(2)	(3)	(4)	
a. Personnel	$	$	$	$	$
b. Fringe Benefits					
c. Travel					
d. Equipment					
e. Supplies					
f. Contractual					
g. Construction					
h. Other					
i. Total Direct Charges (sum of 6a - 6h)					
j. Indirect Charges					
k. TOTALS (sum of 6i and 6j)	$	$	$	$	$
7. Program Income	$	$	$	$	$

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Standard Form 424A (4-88)
Prescribed by OMB Circular A-102

SECTION C - NON-FEDERAL RESOURCES

(a) Grant Program	(b) Applicant	(c) State	(d) Other Sources	(e) TOTALS
8.	$	$	$	$
9.				
10.				
11.				
12. TOTALS (sum of lines 8 and 11)	$	$	$	$

SECTION D - FORECASTED CASH NEEDS

	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	$	$	$	$	$
14. NonFederal					
15. TOTAL (sum of lines 13 and 14)	$	$	$	$	$

SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT

(a) Grant Program	FUTURE FUNDING PERIODS (Years)			
	(b) First	(c) Second	(d) Third	(e) Fourth
16.	$	$	$	$
17.				
18.				
19.				
20. TOTALS (sum of lines 16 -19)	$	$	$	$

SECTION F - OTHER BUDGET INFORMATION

(Attach additional Sheets if Necessary)

21. Direct Charges:	22. Indirect Charges:
23. Remarks	

INSTRUCTIONS FOR THE SF-424A

General Instructions

This form is designed so that application can be made for funds from one or more grant programs. In preparing the budget, adhere to any existing Federal grantor agency guidelines which prescribe how and whether budgeted amounts should be separately shown for different functions or activities within the program. For some programs, grantor agencies may require budgets to be separately shown by function or activity. For other programs, grantor agencies may require a breakdown by function or activity. Sections A,B,C, and D should include budget estimates for the whole project except when applying for assistance which requires Federal authorization in annual or other funding period increments. In the latter case, Sections A,B, C, and D should provide the budget for the first budget period (usually a year) and Section E should present the need for Federal assistance in the subsequent budget periods. All applications should contain a breakdown by the object class categories shown in Lines a-k of Section B.

Section A. Budget Summary
Lines 1-4, Columns (a) and (b)

For applications pertaining to a *single* Federal grant program (Federal Domestic Assistance Catalog number) and *not requiring* a functional or activity breakdown, enter on Line 1 under Column (a) the catalog program title and the catalog number in Column (b).

For applications pertaining to a *single* program *requiring* budget amounts by multiple functions or activities, enter the name of each activity or function on each line in Column (a), and enter the catalog number in Column (b). For applications pertaining to multiple programs where none of the programs require a breakdown by function or activity, enter the catalog program title on each line in *Column* (a) and the respective catalog number on each line in Column (b).

For applications pertaining to *multiple* programs where one or more programs *require* a breakdown by function or activity, prepare a separate sheet for each program requiring the breakdown. Additional sheets should be used when one form does not provide adequate space for all breakdown of data required. However, when more than one sheet is used, the first page should provide the summary totals by programs.

Lines 1-4, Columns (c) through (g.)

For new applications, leave Columns (c) and (d) blank. For each line entry in Columns (a) and (b), enter in Columns (e), (f), and (g) the appropriate amounts of funds needed to support the project for the first funding period (usually a year).

Lines 1-4, Columns (c) through (g.) (continued)

For continuing grant program applications, submit these forms before the end of each funding period as required by the grantor agency. Enter in Columns (c) and (d) the estimated amounts of funds which will remain unobligated at the end of the grant funding period only if the Federal grantor agency instructions provide for this. Otherwise, leave these columns blank. Enter in columns (e) and (f) the amounts of funds needed for the upcoming period. The amount(s) in Column (g) should be the sum of amounts in Columns (e) and (f).

For supplemental grants and changes to existing grants, do not use Columns (c) and (d). Enter in Column (e) the amount of the increase or decrease of Federal funds and enter in Column (f) the amount of the increase or decrease of non-Federal funds. In Column (g) enter the new total budgeted amount (Federal and non-Federal) which includes the total previous authorized budgeted amounts plus or minus, as appropriate, the amounts shown in Columns (e) and (f). The amount(s) in Column (g) should not equal the sum of amounts in Columns (e) and (f).

Line 5 — Show the totals for all columns used.

Section B Budget Categories

In the column headings (1) through (4), enter the titles of the same programs, functions, and activities shown on Lines 1-4, Column (a), Section A. When additional sheets are prepared for Section A, provide similar column headings on each sheet. For each program, function or activity, fill in the total requirements for funds (both Federal and non-Federal) by object class categories.

Lines 6a-i — Show the totals of Lines 6a to 6h in each column.

Line 6j – Show the amount of indirect cost.

Line 6k – Enter the total of amounts on Lines 6i and 6j. For all applications for new grants and continuation grants the total amount in column (5), Line 6k, should be the same as the total amount shown in Section A, Column (g), Line 5. For supplemental grants and changes to grants, the total amount of the increase or decrease as shown in Columns (1)-(4), Line 6k should be the same as the sum of the amounts in Section A, Columns (e) and (f) on Line 5.

INSTRUCTIONS FOR THE SF-424A *(continued)*

Line 7 – Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount. Show under the program narrative statement the nature and source of income. The estimated amount of program income may be considered by the federal grantor agency in determining the total amount of the grant.

Section C. Non-Federal-Resources

Lines 8-11 – Enter amounts of non-Federal resources that will be used on the grant. If in-kind contributions are included, provide a brief explanation on a separate sheet.

Column (a) – Enter the program titles identical to Column (a), Section A. A breakdown by function or activity is not necessary.

Column (b) – Enter the contribution to be made by the applicant.

Column (c) – Enter the amount of the State's cash and in-kind contribution if the applicant is not a State or State agency. Applicants which are a State or State agencies should leave this column blank.

Column (d) – Enter the amount of cash and in-kind contributions to be made from all other sources.

Column (e) – Enter totals of Columns (b), (c), and (d).

Line 12 — Enter the total for each of Columns (b)-(e). The amount in Column (e) should be equal to the amount on Line 5, Column (f), Section A.

Section D. Forecasted Cash Needs

Line 13 – Enter the amount of cash needed by quarter from the grantor agency during the first year.

Line 14 – Enter the amount of cash from all other sources needed by quarter during the first year.

Line 15 – Enter the totals of amounts on Lines 13 and 14.

Section E. Budget Estimates of Federal Funds Needed for Balance of the Project

Lines 16 - 19 – Enter in Column (a) the same grant program titles shown in Column (a), Section A. A breakdown by function or activity is not necessary. For new applications and continuation grant applications, enter in the proper columns amounts of Federal funds which will be needed to complete the program or project over the succeeding funding periods (usually in years). This section need not be completed for revisions (amendments, changes, or supplements) to funds for the current year of existing grants.

If more than four lines are needed to list the program titles, submit additional schedules as necessary.

Line 20 – Enter the total for each of the Columns (b)-(e). When additional schedules are prepared for this Section, annotate accordingly and show the overall totals on this line.

Section F. Other Budget Information

Line 21 – Use this space to explain amounts for individual direct object-class cost categories that may appear to be out of the ordinary or to explain the details as required by the Federal grantor agency.

Line 22 – Enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense.

Line 23 – Provide any other explanations or comments deemed necessary.

OMB Approval No. 0348-0040

ASSURANCES — NON-CONSTRUCTION PROGRAMS

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728-4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C.§§ 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply with the provisions of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a-7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. §§ 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for federally assisted construction subagreements.

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program andto purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. § 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.).

14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE
APPLICANT ORGANIZATION	DATE SUBMITTED

SF 424B (4-88) Back

BILLING CODE 4139-01-C

U.S. Department of Health and Human Services Certification Regarding Drug-Free Workplace Requirements Grantees Other Than Individuals

By signing and/or submitting this application or grant agreement, the grantee is providing the certification set out below.

This certification is required by regulations implementing the Drug-Free Workplace Act of 1988, 45 CFR part 76, subpart F. The regulations, published in the January 31, 1989 **Federal Register**, require certification by grantees that they will maintain a drug-free workplace. The certification set out below is a material representation of fact upon which reliance will be placed when HHS determines to award the grant. False certification or violation of the certification shall be grounds for suspension of payments, suspension or termination of grants, or governmentwide suspension or debarment.

The grantee certifies that it will provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing a drug-free awareness program to inform employees about:

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and,

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:

(1) Abide by the terms of the statement; and,

(2) Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction;

(e) Notifying the agency within ten days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction;

(f) Taking one of the following actions, within 30 days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:

(1) Taking appropriate personnel action against such an employee, up to and including termination; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions

By signing and submitting this proposal, the applicant, defined as the primary participant in accordance with 45 CFR part 76, certifies to the best of its knowledge and belief that it and its principals:

(a) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal Department or agency;

(b) have not within a 3-year period preceding, this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) are not presently indicted or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1) (b) of this certification; and

(d) have not within a 3-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

The inability of a person to provide the certification required above will not necessarily result in denial of participation in this covered transaction. If necessary, the prospective participant shall submit an explanation of why it cannot provide the certification. The certification or explanation will be considered in connection with the Department of Health and Human Services (HHS) determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

The prospective primary participant agrees that by submitting this proposal, it will include the clause entitled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—Lower Tier Covered Transaction." provided below without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions

(To Be Supplied to Lower Tier Participants)

By signing and submitting this lower tier proposal, the prospective lower tier participant, as defined in 45 CFR Part 76, certifies to the best of its knowledge and belief that it and its principals:

(a) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

(b) where the prospective lower tier participant is unable to certify to any of the above, such prospective participant shall attach an explanation to this proposal.

The prospective lower tier participant further agrees by submitting this proposal that it will include this clause entitled "certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—Lower Tier Coverd Transactions. "without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

Certification Regarding Lobbying

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Organization

Authorized Signature Title Date

Note: If Disclosure Forms are required, please contact: Mr. William Sexton, Deputy Director, Grants and Contracts Management Division, Room 341F, HHH Building, 200

Independence Avenue SW, Washington, D.C. 20201–0001.

Appendix II—Executive Order 12372—State Single Points of Contact

Alabama
Mrs. Moncell Thornell
State Single Point of Contact
Alabama Department of Economic and Community Affairs
3465 Norman Bridge Road
Post Office Box 250347
Montgomery, Alabama 36125–0347
Tel. (205) 284–8905

Alaska
None

Arizona
Mrs. Janice Dunn
ATTN: Arizona State Clearinghouse
1700 West Washington, Fourth Floor
Phoenix, Arizona 85007
Tel. (602) 542–5004

Arkansas
Mr. Joseph Gillesbie, Manager
State Clearinghouse
Office of Intergovernmental Services
Department of Finance and Administration
P.O. Box 3278
Little Rock, Arkansas 72203
Tel. (501) 371–1074

California
Loreen McMahon, Grants Coordinator
Office of Planning and Research
1400 Tenth Street
Sacramento, California 95814
Tel. (916) 445–0613

Colorado
State Single Point of Contact
State Clearinghouse
Division of Local Government
1313 Sherman Street, Room 520
Denver, Colorado 80203
Tel. (303) 866–2156

Connecticut
Under Secretary
ATTN: Intergovernmental Review Coordinator
Comprehensive Planning Division
Office of Policy and Management
80 Washington Street
Hartford, Connecticut 06106–4459
Tel. (203) 566–3410

Delaware
Francine Booth
State Single Point of Contact
Executive Department
Thomas Collins Building
Dover, Delaware 19903
Tel. (302) 736–3326

District of Columbia
Lovetta Davis
State Single Point of Contact
Executive Office of the Mayor
Office of Intergovernmental Relations
Room 416, District Building
1350 Pennsylvania Avenue NW.
Washington, D.C. 20004
Tel. (202) 727–9111

Florida
Karen McFarland
Director of Intergovernmental Coordination
Single Point of Contact
Executive Office of the Governor
Office of Planning and Budgeting
The Capitol
Tallahassee, Florida 32399–0001
Tel. (904) 488–8114

Georgia
Charles H. Badger, Administrator
Georgia State Clearinghouse
270 Washington Street SW.
Atlanta, Georgia 30334
Tel. (404) 656–3855

Hawaii
Harold S. Masumoto
Acting Director
Office of State Planning
Department of Planning and Economic Development
Office of the Governor
State Capitol
Honolulu, Hawaii 96813
Tel. (808) 548–3016 or 548–3085

Idaho
None

Illinois
Tom Berkshire
State Single Point of Contact
Office of the Governor
State of Illinois
Springfield, Illinois 62706
Tel. (217) 782–8639

Indiana
Frank Sullivan
Budget Director
State Budget Agency
212 State House
Indianapolis, Indiana 46204
Tel. (317) 232–5610

Iowa
Steven R. McCann
Division of Community Progress
Iowa Department of Economic Development
200 East Grand Avenue
Des Moines, Iowa 50309
Tel. (515) 281–3725

Kansas
None

Kentucky
Robert Leonard
State Single Point of Contact
Kentucky State Clearinghouse
2nd Floor, Capital Plaza Tower
Frankfort, Kentucky 40601
Tel. (502) 564–2382

Maine
State Single Point of Contact
ATTN: Joyce Benson
State Planning Office
State House Station #38
Augusta, Maine 04333
Tel. (207) 289–3261

Maryland
Mary Abrams
Director
Maryland State Clearinghouse
Department of State Planning
301 West Preston Street
Baltimore, Maryland 21201–2365
Tel. (301) 225–4490

Massachusetts
State Single Point of Contact
ATTN: Beverly Boyle
Executive Office of Communities and Development
100 Cambridge Street, Room 904
Boston, Massachusetts 02202
Tel. (617) 727–3253

Michigan
Michelyn Pasteur
Deputy Director, Local Development Services
Department of Commerce
P.O. Box 30225
Lansing, Michigan 48903
Tel. (517) 375–1838
Note: Please direct correspondence to: Manager, Federal Project Review System, 6500 Mercantile Way, Suite 2, Lansing, Michigan 48911 Tel. (517) 334–6190

Minnesota
None

Mississippi
Cathy Mallette
Clearinghouse Officer
Department of Finance and Administration
421 West Pascagoula Street
Jackson, Mississippi 39206
Tel. (601) 960–4282

Missouri
Lois Pohl
Federal Assistance Clearinghouse
Office of Administration
Division of General Services
P.O. Box 809
Room 430, Truman Building
Jefferson City, Missouri 65102
Tel. (314) 751–4834

Montana
Deborah Davis
State Single Point of Contact
Intergovernmental Review Clearinghouse
c/o Office of Lieutenant Governor
Capitol Station
Room 210—State Capitol
Helena, Montana 59620
Tel. (406) 444–5522

Nebraska
None

Nevada
Nevada Office of Community Services
Capitol Complex
Carson City, Nevada 89710
Tel. (702) 885–4420
NOTE: Please direct correspondence and questions to: John Walker, Clearinghouse Coordinator, Tel. (702) 885–4420

New Hampshire
Robert W. Varney
Director
New Hampshire Office of State Planning
Attn: Intergovernmental Review Process/ James E. Bieber
2½ Beacon Street
Concord, New Hampshire 03301
Tel. (603) 271–2155

New Jersey
Mr. Barry Skokowski, Director
Director
Division of Local Government Services
Department of Community Affairs, CN 803
Trenton, New Jersey 08625–0803
Tel. (609) 292–6613
Note: Please direct correspondence and questions to: Nelson S. Silver, State Review Process, Division of Local Government Services, CN 803, Trenton, New Jersey 08625–0803, Tel. (609) 292–9025

New Mexico
Dean Olson, Director
Management & Program Analysis Division
Department of Finance & Administration
Room 424, State Capitol Building
Santa Fe, New Mexico 87503
Tel. (505) 827-3885

New York
New York State Clearinghouse
Division of the Budget
State Capitol
Albany, New York 12224
Tel. (518) 474-1605

North Carolina
Mrs. Chrys Baggett
Director
Intergovernmental Relations
N.C. Department of Administration, 116 W. Jones Street
Raleigh, North Carolina 27611
Telephone (919) 733-0499

North Dakota
William Robinson
State Single Point of Contact
Office of Intergovernmental Affairs
Office of Management and Budget
14th Floor, State Capitol
Bismarck, North Dakota 58505
Tel. (701) 224-2094

Ohio
Larry Weaver
State Single Point of Contact
State/Federal Funds Coordinator
State Clearinghouse
Office of Budget and Management
30 East Broad Street, 34th Floor
Columbus, Ohio 43266-0411
Tel. (614) 466-0698

Oklahoma
Don Strain
State Single Point of Contact
Oklahoma Department of Commerce
Office of Federal Assistance Management
6601 Broadway Extension
Oklahoma City, Oklahoma 73116
Tel. (405) 843-9770

Oregon
Attn: Delores Streeter
State Single Point of Contact
Intergovernmental Relations Division
State Clearinghouse
155 Cottage Street N.E.
Salem, Oregon 97310
Tel. (503) 373-1998

Pennsylvania
Pennsylvania Intergovernmental Council
P.O. Box 11880
Harrisburg, Pennsylvania 17108
Tel. (717) 783-3700

Rhode Island
Daniel W. Varin
Associate Director
Statewide Planning Program
Department of Administration
Division of Planning
265 Melrose Street
Providence, Rhode Island 02907
Tel. (401) 277-2656
NOTE: Please direct correspondence and questions to: Review Coordinator, Office of Strategic Planning

South Carolina
Danny L. Cromer
State Single Point of Contact
Grant Services
Office of the Governor
1205 Pendleton Street, Room 477
Columbia, South Carolina 29201
Tel. (803) 734-0435

South Dakota
Susan Comer
State Clearinghouse Coordinator
Office of the Governor
500 East Capitol
Pierre, South Dakota 57501
Tel. (605) 773-3212

Tennessee
Charles Brown
State Single Point of Contact
State Planning Office
500 Charlotte Avenue
309 John Sevier Building
Nashville, Tennessee 37219
Tel. (615) 741-1676

Texas
Ralph Boeker, Jr.
Office of Budget and Planning
Office of the Governor
P.O. Box 12428
Austin, Texas 78711
Tel. (512) 463-1778

Utah
Dale Hatch
Director, Office of Planning and Budget
State of Utah
116 State Capitol Building
Salt Lake City, Utah 84114
Tel. (801) 533-5245

Vermont
Bernard D. Johnson
Assistant Director
Office of Policy Research & Coordination
Pavilion Office Building
109 State Street
Montpelier, Vermont 05602
Tel. (802) 828-3326

Virginia
None

Washington
Catherine Townley, Coordinator
Intergovernmental Review Process
Department of Community Development
9th and Columbia Building
Olympia, Washington 98504-4151
Tel. (206) 753-4978

West Virginia
Mr. Fred Cutlip, Director
Community Development Division
Governor's Office of Community and Industrial Development
Building #6, Room 553
Charleston, West Virginia 25305
Tel. (304) 348-4010

Wisconsin
James R. Klauser, Secretary
Wisconsin Department of Administration
101 South Webster Street, GEF 2
P.O. Box 7864
Madison, Wisconsin 53707-7864
Tel. (608) 266-1741
Note: Please direct correspondence and question to: Thomas Krauskopf, Federal-State Relations Coordinator, Wisconsin Department of Administration

Wyoming
Ann Redman
State Single Point of Contact
Wyoming State Clearinghouse
State Planning Coordinator's Office
Capitol Building
Cheyenne, Wyoming 82002
Tel. (307) 777-7574

American Samoa
None

Guam
Michael J. Reidy
Director
Bureau of Budget and Management Research
Office of the Governor
P.O. Box 2950
Agana, Guam 96910
Tel. (671) 472-2285

Northern Mariana Islands
State Single Point of Contact
Planning and Budget Office
Office of the Governor
Saipan, CM
Northern Mariana Islands 96950

Palau
None

Puerto Rico
Patria Custodio/Israel Soto Marrero
Chairman/Director
Puerto Rico Planning Board
Minillas Government Center
P.O. Box 41119
San Juan, Puerto Rico 00940-9985
Tel. (809) 727-4444

Virgin Islands
Jose L. George, Director
Office of Management and Budget
No. 32 & 33 Kongens Gade
Charlotte Amalie, V.I. 00802
Tel. (809) 774-0750

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Part III

Department of Health and Human Services

Food and Drug Administration

21 CFR Parts 310, 331

Hypophosphatemia and Hyperphosphatemia Drug Products for Over-the-Counter Use; Final Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 310 and 331

[Docket No. 80N-0395]

RIN 0905-AA06

Hypophosphatemia and Hyperphosphatemia Drug Products for Over-the-Counter Human Use

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule establishing that any drug product labeled for over-the-counter (OTC) use in treating hypophosphatemia (abnormally low plasma level of phosphate in the blood) or hyperphosphatemia (abnormally high plasma level of phosphate in the blood) is not generally recognized as safe and effective and is misbranded. This final rule also amends the monograph for OTC antacid drug products to revise the ingredient listing for aluminum phosphate to state that this ingredient is for use only in combination with other OTC antacid ingredients, to include professional labeling for a hyperphosphatemia claim for products containing aluminum carbonate, and to include professional labeling for additional warnings for aluminum-containing antacid drug products. FDA is issuing this final rule after considering public comments on the agency's proposed regulation, which was issued in the form of a tentative final rule, and all new data and information on hypophosphatemia and hyperphosphatemia drug products that have come to the agency's attention. This final rule is part of the ongoing review of OTC drug products conducted by FDA.

EFFECTIVE DATES: The effective date for §§ 310.541 and 310.542 is November 12, 1990, and the effective date for §§ 331.11 and 331.80 is May 13, 1991.

FOR FURTHER INFORMATION CONTACT: William E. Gilbertson, Center for Drug Evaluation and Research (HFD-210), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8000.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of December 9, 1980 (45 FR 81154), FDA published, under § 330.10(a)(6) (21 CFR 330.10(a)(6)), an advance notice of proposed rulemaking that (1) would classify OTC hypophosphatemia and hyperphosphatemia drug products as not generally recognized as safe and effective and as being misbranded and (2) would declare these products to be new drugs within the meaning of section 201(p) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321(p)). The notice was based on the recommendations of the Advisory Review Panel on OTC Miscellaneous Internal Drug Products (Miscellaneous Internal Panel), which was the advisory review panel responsible for evaluating data on the active ingredients in these drug classes. Interested persons were invited to submit comments by March 9, 1981. Reply comments in response to comments filed in the initial comment period could be submitted by April 8, 1981.

In accordance with § 330.10(a)(10), the data and information considered by the Panel were put on display in the Dockets Management Branch (HFA-305), Food and Drug Administration, Room 4-62, 5600 Fishers Lane, Rockville, MD 20857, after deletion of a small amount of trade secret information.

The agency's proposed regulation, in the form of a tentative final rule, for OTC hypophosphatemia and hyperphosphatemia drug products was published in the **Federal Register** of January 15, 1985 (50 FR 2160). Interested persons were invited to file by May 15, 1985, written comments, objections, or requests for oral hearing before the Commissioner of Food and Drugs regarding the proposal. Interested persons were invited to file comments on the agency's economic impact determination by May 15, 1985. New data could have been submitted until January 15, 1986, and comments on the new data until March 17, 1986. Final agency action occurs with the publication of this final rule on OTC hypophosphatemia and hyperphosphatemia drug products.

As discussed in the advance notice of proposed rulemaking for OTC hypophosphatemia and hyperphosphatemia drug products (45 FR 81154), the agency stated that conditions excluded from the monograph (Category II) be eliminated from OTC drug products effective 6 months after the date of publication of a final order in the **Federal Register**. However, in the proposed rule (50 FR 2160), the agency advised that the effective date of the final rule would be 12 months after the date of publication in the **Federal Register**. The agency's intent in the proposed rule was that the 12-month effective date was applicable to the "monograph" conditions in the document. In this final rule, OTC hypophosphatemia and hyperphosphatemia drug products are not generally recognized as safe and effective and are misbranded (nonmonograph conditions). In this same document, the monograph for OTC antacid drug products is being amended to include (1) a revision in the aluminum phosphate ingredient listing, (2) a professional labeling claim, and (3) professional labeling warnings (monograph conditions). Because of the nonmonograph and monograph conditions included in this document, the agency is establishing dual effective dates of 6 and 12 months, respectively. The nonmonograph conditions (§§ 310.541 and 310.542) will be effective 6 months after the date of publication of the final rule in the **Federal Register**. This 6-month effective date is consistent with other final rules promulgated by the agency establishing that certain drugs are not generally recognized as safe and effective for OTC use (see, e.g., 21 CFR 310.519 and 310.529). On or after November 12, 1990, no OTC drug products for hypophosphatemia or hyperphosphatemia may be initially introduced or initially delivered for introduction into interstate commerce unless they are the subject of an approved application under section 505 of the act (21 U.S.C. 355) and 21 CFR part 314. Further, any OTC drug product subject to this final rule that is repackaged or relabeled after the effective date of this final rule must be in compliance with the final rule regardless of the date the product was initially introduced or initially delivered for introduction into interstate commerce.

The amendment to the monograph for OTC antacid drug products in this final rule (§§ 331.11 and 331.80) will be effective 12 months after the date of publication in the **Federal Register**. Therefore, on or after May 13, 1991, no OTC drug products that are subject to the monograph for OTC antacid drug products and that contain a nonmonograph condition, i.e., a condition that would cause the drug to be not generally recognized as safe and effective or to be misbranded, may be initially introduced or initially delivered for introduction into interstate commerce unless they are the subject of an approved application. Further, any OTC drug product subject to this monograph that is repackaged or relabeled after the effective date of the monograph must be in compliance with the monograph regardless of the date the product was initially introduced or initially delivered for introduction into interstate commerce. Manufacturers are encouraged to comply voluntarily with

the monograph at the earliest possible date.

The agency recognizes that the Panel considered the ingredients aluminum phosphate gel and aluminum carbonate gel for use in hypophosphatemia and hyperphosphatemia, respectively. In the final monograph for OTC antacid drug products (21 CFR 331.11), these ingredients are named aluminum phosphate and aluminum carbonate. In accordance with the USAN and USP Dictionary of Drug Names (Ref. 1) and The United States Pharmacopeia XXII/ National Formulary XVII (U.S.P. XXII/ N.F. XVII) (Ref. 2), these ingredients are currently designated as aluminum phosphate gel and basic aluminum carbonate gel. Therefore, in responding to comments throughout this document, these ingredients will be referred to by their current compendial names.

In response to the proposed rule on OTC hypophosphatemia and hyperphosphatemia drug products, one drug manufacturer, one drug manufacturers' association, one professional association, and eight individuals submitted comments. No requests for oral hearing before the Commissioner were received. Copies of the comments received are on public display in the Dockets Management Branch (address above). Any additional information that has come to the agency's attention since publication of the proposed rule is also on public display in the Dockets Management Branch.

In proceeding with this final rule, the agency has considered all comments and changes in the procedural regulations.

References

(1) "USAN and the USP Dictionary of Drug Names," United States Pharmacopeial Convention, Inc., Rockville, MD, pp. 32–33, 1989

(2) "The United States Pharmacopeia XXII—The National Formulary XVII," United States Pharmacopeial Convention, Inc., Rockville, MD, pp. 50–54, 1989.

I. The Agency's Conclusions on the Comments

1. One comment contended that OTC drug monographs are interpretive, as opposed to substantive, regulations. The comment referred to statements on this issue submitted earlier to other OTC drug rulemaking proceedings.

The agency addressed this issue in paragraphs 85 through 91 of the preamble to the procedures for classification of OTC drug products, published in the **Federal Register** of May 11, 1972 (37 FR 9464), and in paragraph 3 of the preamble to the tentative final monograph for antacid drug products, published in the **Federal Register** of November 12, 1973 (38 FR 31260). FDA reaffirms the conclusions stated in those documents. Court decisions have confirmed the agency's authority to issue substantive regulations by rulemaking. (See, e.g., *National Nutritional Foods Association* v. *Weinberger*, 512 F. 2d 688, 696–98 (2d Cir. 1975) and *National Association of Pharmaceutical Manufacturers* v. *FDA*, 487 F. Supp. 412 (S.D.N.Y. 1980), *aff'd*, 637 F.2d 887 (2d Cir. 1981).)

2. One comment stated that FDA cannot legally prescribe exclusive lists of terms from which indications for use for OTC drug products must be drawn and thus prohibit alternative OTC labeling terminology to described such indications which is truthful, not misleading, intelligible to the consumer. The comment noted that its views were presented to FDA in connection with the September 29, 1982 hearing on the "Exclusivity Policy."

In the **Federal Register** of May 1, 1986 (51 FR 16258), the agency published a final rule changing its labeling policy for stating the indications for use of OTC drug products. Under 21 CFR 330.1(c)(2), the label and labeling of OTC drug products are required to contain in a prominent and conspicuous location, either (1) the specific wording on indications for use established under an OTC drug monograph, which may appear within a boxed area designated "APPROVED USES"; (2) other wording describing such indications for use that meets the statutory prohibitions against false or misleading labeling, which shall neither appear a boxed are nor be designated "APPROVED USES"; or (3) the approved monograph language on indications, which may appear within a boxed area designated "APPROVED USES," plus alternative language describing indications for use that is not false or misleading, which shall appear elsewhere in the labeling. All other OTC drug labeling required by a monograph or other regulation (e.g., statement of identity, warnings, and directions) must appear in the specific wording established under the OTC drug monograph or other regulation where exact language has been established and identified by quotation marks, e.g., 21 CFR 201.63 or 330.1(g). However, the above provisions are not applicable to the final rule for OTC hypophosphatemia and hyperphosphatemia drug products because there are no drug products that are generally recognized as safe and effective for OTC use for these indications.

3. Two comments objected to the characterization of the statement in the professional labeling in proposed § 331.31(a)(3) as "Warning(s)" and requested that they be changed to "Cautions." The comments contended that the proposed statements are more accurately characterized as "caution(s)" because, rather than precluding use, they provide information about potential problems. If the agency were to insist on the need for a warning in the professional labeling of OTC antacid drug products containing aluminum, one comment recommended that the "warning" be changed to a "caution" because its primary purpose is to alert the physician to a potential problem.

The "warning" statements referred to by the comments in proposed § 331.31(a)(3) are not intended for the OTC labeling of aluminum-containing antacids directed to the lay consumer, but are intended for "professional labeling" to be distributed to physicians. However, the agency considers its general policy concerning the use of the signal words "caution" or "warning" in OTC drug labeling to be equally appropriate for professional labeling of OTC drugs.

Section 502(f)(2) of the act (21 U.S.C. 352(f)(2)) states, in part, that unless exempted by regulation, the labeling for a drug must bear " * * * such adequate warnings * * * as are necessary for the protection of users." Section 330.10(a)(4)(v) of the OTC drug regulations (21 CFR 330.10(a)(4)(v)) provides that labeling of OTC drug products should include " * * * warnings against unsafe use, side effects, and adverse reactions * * *."

The agency notes that historically there has not been consistent usage of the signal words "warning" and "caution" in OTC drug labeling. For example, in §§ 369.20 and 369.21 (21 CFR 369.20 and 369.21), which list "warning" and "caution" statements for drugs, the signal words "warning" and "caution" are both used. In some instances, either of these signal words is used to convey the same or similar precautionary information.

For OTC drug labeling, FDA has concluded that the signal word "warning" is more likely to flag potential dangers so that consumers will read the information being conveyed. Therefore, FDA has determined that the signal word "warning," rather than the word "caution," will be used routinely in OTC drug labeling. In order to maintain uniformity in labeling, the agency is using this same approach for the professional labeling included in OTC drug monographs.

4. One comment considered the use of the term "magaldrate" in the labeling of

OTC antacids as "mislabeling." The comment stated that one pharmacist had incorrectly recommended a magaldrate-containing antacid as a non-aluminum-containing antacid, while a second pharmacist recognized the presence of aluminum in the antacid product. The comment questioned "why the manufacturer is allowed to use a 'made up' name to conceal the presence" of aluminum in a product.

Under section 502(e)(1) of the act (21 U.S.C. 352(e)(1)), a drug is considered misbranded if its label does not bear the established name of the drug, if one exists. The established name of a drug is defined in section 502(e)(3) of the act (21 U.S.C. 352(e)(3)), as follows: " * * * (A) the applicable official name designated pursuant to section 508, or (B) if there is no such name and such drug, or such ingredient, is an article recognized in an official compendium, then the official title thereof in such compendium or (C) if neither clause (A) nor clause (B) of this subparagraph applies, then the common or usual name, if any, of such drug or of such ingredient * * *." The agency has further clarified this definition in 21 CFR 299.4(b) as follows: " * * * (1) an official name designated pursuant to section 508 of the act; (2) if no such official name has been designated for the drug and the drug is an article recognized in an official compendium, then the official title thereof in such compendium; and (3) if neither paragraphs (b) (1) or (2) of this section applies, then the common or usual name of the drug."

The agency recognizes the skill and experience of the United States Adopted Names Council (USAN) in deriving names for drugs. (See 21 CFR 299.4(c).) USAN chose the name "magaldrate" to represent this drug based on its guiding principles for coining adopted names for drugs (Ref. 1). These principles include, among others, suitability, simplicity, and established usage. The name "magaldrate" has appeared in an official compendium in the United States for 20 years. "Magaldrate" was included in the National Formulary XIII in 1970 (Ref. 2) and later in the United States Pharmacopeia XIX in 1975 (Ref. 3). These official compendia have been published in one volume, the United States Pharmacopeia/National Formulary (U.S.P/N.F.), since 1980, and the name "magaldrate" has been used in each edition (Refs. 4, 5, and 6).

The monograph for OTC antacid drug products has listed "magaldrate" as an active ingredient since its publication in the **Federal Register** of June 4, 1974 (39 FR 19862), and "magaldrate" is currently listed as a specific active ingredient in § 331.11(g)(2) of the OTC antacid monograph (21 CFR 331.11(g)(2)). The agency regrets that the individual who submitted the comment was mislead by one pharmacist and is confident that this represents an isolated incident. The vast majority of pharmacists in the United States are familiar with the chemical composition of specific ingredients in OTC drug products. Also, reference books are readily available to answer questions about a drug ingredient.

References

(1) "USAN and the USP Dictionary of Drug Names," United States Pharmacopeial Convention, Inc., Rockville, MD, pp. 640–645, 1989.

(2) "National Formulary XIII," American Pharmaceutical Association, Washington, pp. 396–397, 1970.

(3) "The United States Pharmacopeia—XIX," United States Pharmacopeial Convention, Rockville, MD, p. 290, 1975.

(4) "The United States Pharmacopeia XX—The National Formulary XV," United States Pharmacopeial Convention, Inc., Rockville, MD, pp. 456–457, 1980.

(5) "The United States Pharmacopeia XXI—The National Formulary XVI," United States Pharmacopeial Convention, Inc., Rockville, MD, pp. 607–608, 1985.

(6) "The United States Pharmacopeia XXII—The National Formulary XVII," United States Pharmacopeial Convention, Inc., Rockville, MD, pp. 785–786, 1989.

5. One comment requested that the professional labeling indication in proposed § 331.31(a)(4), which states "For the treatment, control, or management of hyperphosphatemia, or for use with a low phosphate diet to prevent formation of phosphate urinary stones, through the reduction of phosphates in the serum and urine," be extended to products containing aluminum hydroxide in addition to products containing aluminum carbonate (50 FR 2160 at 2166). Pointing out that reactive aluminum hydroxide gels usually contain carbonate, the comment stated that aluminum carbonate, as such, does not exist, and that conventional pharmaceutical aluminum carbonate is, in fact, a mixture of aluminum hydroxide and bicarbonate and/or carbonate species that form the hydroxy carbonate species called "basic aluminum carbonates." Noting that the British Pharmacopeia defines aluminum hydroxide gel as containing * * * varying quantities of basic aluminum carbonate and that the U.S.P. states that aluminum hydroxide gel * * * may contain varying quantities of basic aluminum carbonate and bicarbonate (Ref. 1), the comment stated that aluminum hydroxide U.S.P. and basic aluminum carbonate are essentially identical and should be recognized as such with respect to the professional labeling for phosphate binding. The submission also included an in vitro study of the relative phosphate binding capacities of commercially-available aluminum hydroxide gels and basic aluminum carbonate gels and published information on the in vivo phosphate binding ability of a range of aluminum salts (Ref. 1).

The Miscellaneous Internal Panel reviewed ingredients used in the OTC treatment of hyperphosphatemia in its report published in the **Federal Register** of December 9, 1980 (45 FR 81154). Only one ingredient, basic aluminum carbonate gel, was submitted for the Panel's review, and the Panel did not identify any other ingredients through its review of the literature. The Panel concluded that, although hyperphosphatemia was not amenable to OTC treatment, basic aluminum carbonate gel is safe and effective in the treatment of hyperphosphatemia under the supervision of a physician (45 FR 81154 at 81156 and 81157). Although the Panel concluded that basic aluminum carbonate gel was safe " * * * at a dose up to the equivalent of 12 g of aluminum hydroxide daily * * *," the Panel did not suggest that the professional labeling indication for hyperphosphatemia be extended to aluminum hydroxide.

The current edition of the United States Pharmacopeia/National Formulary (U.S.P. XXII/N.F. XVII), effective on January 1, 1990, defines basic aluminum carbonate gel in terms of its aluminum hydroxide equivalent content and defines aluminum hydroxide gel as containing amorphous aluminum hydroxide in which there is a partial substitution of carbonate for hydroxide (Ref. 2). The agency acknowledges that these two drugs are chemically similar. However, the comment did not submit sufficient data for the agency to determine if aluminum hydroxide is generally recognized as safe and effective for the professional labeling indication of hyperphosphatemia.

The agency believes that the most important consideration in selecting an ingredient to be used for the treatment of hyperphosphatemia is the phosphate binding capacity of the ingredient. As discussed by the Panel in its report (45 FR 81154 at 81157), some aluminum-containing compounds, when taken orally, combine with phosphate present from normal ingestion to form relatively insoluble aluminum phosphate complexes. These phosphate binding aluminum-containing compounds reduce

the amount of phosphate absorbed into the bloodstream and excreted in the urine. The in vivo and in vitro data submitted by the comment, though limited, indicate that aluminum hydroxide possesses the property of phosphate binding. In the submitted clinical study, 19 patients who were maintained by hemodialysis received 2 formulations of aluminum phosphate binders, aluminum hydroxide suspension and dried basic aluminum carbonate gel in the form of capsules (Ref. 3). In this 30-week study, patients received no treatment (i.e., no drug or placebo) for weeks 1 to 4, either aluminum hydroxide or basic aluminum carbonate gel for weeks 5 to 13, placebo for weeks 14 to 18, and either basic aluminum carbonate gel or aluminum hydroxide for weeks 19 to 27 (i.e., patients were crossed over to the phosphate binder that was not given during weeks 5 to 13), and no treatment for weeks 28 to 30. Of the 19 patients, 5 did not complete the last phase of the study (weeks 28 to 30), and 1 patient failed to complete half of the study. The results showed that aluminum hydroxide was statistically the same as basic aluminum carbonate gel in lowering plasma phosphate at one dose, equivalent to 170 milligrams of aluminum. However, the in vitro data, although also limited, show that basic aluminum carbonate gel has consistently higher phosphate binding capacity than aluminum hydroxide when compared per milligram of aluminum hydroxide. The agency does not consider these data as sufficient to establish general recognition of effectiveness to support a professional labeling indication for aluminum hydroxide for this use. If, in the future, additional data are submitted in support of the use aluminum hydroxide for the professional labeling indication for the treatment of hyperphosphatemia, the agency will consider this issue further. Interested parties should meet with the agency to ascertain what additional data are needed.

References

(1) Comment No. C00016, Docket No. 80N–0395, Dockets Management Branch.

(2) "The United States Pharmacopeia XXII—The National Formulary XVII," United States Pharmacopeial Convention, Inc., Rockville, MD, pp. 50–52, 1989.

(3) Johnson, W.J., and P.C. O'Brien, "Effectiveness of Intestinal Phosphate Binders in Patients Maintained by Hemodialysis," *Nephron*, 21:123–130, 1978.

6. Two comments objected to the warnings proposed for the professional labeling of OTC aluminum-containing antacid drug products and requested that neither warning be included in the antacid monograph. The warnings proposed for inclusion in § 331.31(a)(3) of the antacid monograph were as follows:

(i) Evidence suggests that elevated tissue aluminum levels have a role in development of the dialysis encephalopathy syndrome. A number of cases have been associated with elevated aluminum levels in the dialysate water. There is also evidence that small amounts of ingested aluminum are absorbed from the gastrointestinal tract, and it is likely that renal excretion of absorbed aluminum is impaired in renal failure. Prolonged use of aluminum-containing antacids in such patients may contribute to increased tissue levels of aluminum.

(ii) Aluminum forms insoluble complexes with phosphate in the gastrointestinal tract, thus decreasing phosphate absorption. Prolonged use of aluminum-containing antacids by normophosphatemic patients may result in hypophosphatemia if phosphate intake is not adequate. In its more severe forms, hypophosphatemia can lead to anorexia, malaise, muscle weakness, and osteomalacia.

Referring to the warning in paragraph (i) above, the comments stated that the warning relates to individuals with impaired renal function and those receiving kidney dialysis treatment who are maintained under the close supervision of a specialist in renal disease. Because of this supervision, one comment argued that it would be "highly improbable" that such patients would be exposed to medications which might exacerbate their condition. The comment added that inclusion of an 80-word warning in the professional labeling of aluminum-containing antacid drug products is irrelevant, unnecessary, and excessive. The other comment stated that this warning has no bearing on the promotion of the product to the health-care professional for general antacid uses.

Regarding the proposed warning in paragraph (ii) above, the comments stated that this warning is relevant only in situations where dietary phosphate is not adequate in normophosphatemic patients. The comment stated that dietary phosphate deficiency in man essentially does not occur given that "phosphate is available in all foods consisting of plant and animal cells as well as all dairy products." One of the comments noted that the possibility of the occurrence of disturbances in mineral metabolism in patients with normal renal function is highly unlikely even where there is abuse of the aluminum-containing antacids by very prolonged use of high doses. The comment mentioned that a literature search covering 1966 to 1984 produced only 16 such cases (Ref. 1). The comments concluded that the warning is unnecessary and should not be required in the professional labeling of OTC aluminum-containing antacid drug products.

One of the comments also recommended that if the agency concludes that warnings are necessary for the professional labeling of OTC aluminum-containing antacid drug products, the wording should be revised as follows:

For products indicated only for antacid use. Prolonged use of aluminum-containing antacids in patients *with renal disease* may contribute to increased tissue levels of aluminum.

For products indicated for use in hyperphosphatemia. Evidence suggests that elevated tissue aluminum levels have a role in the development of the dialysis encephalopathy syndrome. A number of cases have been associated with elevated aluminum levels in the dialysate water. There is *some* evidence that small amounts of ingested aluminum *may* be absorbed from the gastrointestinal tract and it is *possible* that renal excretion of absorbed aluminum is impaired in renal disease.

In the notice of proposed rulemaking on hypophosphatemia and hyperphosphatemia drug products, published in the **Federal Register** of January 15, 1985 (50 FR 2160), the agency reviewed all the available data on the involvement of aluminum as an etiological factor in various conditions and concluded that it would be appropriate to provide additional information in the professionsl labeling section of the antacid monograph for aluminum-containing antacid drug products. Accordingly, the agency proposed that the two warnings in paragraphs (i) and (ii) above be added to § 331.31(a) of the antacid monograph.

The comments submitted no new data establishing that these warnings are not needed. The agency does not agree with the comments that the warnings proposed for the professional labeling of aluminum-containing antacid drug products are unnecessary and irrelevant. The agency acknowledges that specialists may have knowledge of information concerning the safe and effective use of a product. However, the agency does not agree that such knowledge makes the inclusion of this information in the labeling unnecessary. The agency believes that these warnings in the professional labeling of OTC drug products provide physicians, including physicians who are not specialists in the treatment of renal disease, with the kind of information that is presented in the package inserts of prescription drug products. In addition, the agency

believes that the comments recognize the validity of the concerns raised by this warning information, which is intended to be informative to physicians who are treating patients with any of the aluminum-containing antacid drug products. The agency finds that the alternative warnings submitted by one comment are inadequate because they do not include any reference to the effect of aluminum on normophosphatemic patients and because the suggested revisions weaken the intent of the statement in (i) by changing key words, e.g., "may be absorbed" instead of "are absorbed." For the above reasons, the agency disagrees with the comments and is amending proposed § 331.31(a) to add the information proposed in § 331.31(a)(3)(ii). In addition, another comment submitted a number of references from the scientific literature that have led the agency to expand and revise the information contained in proposed § 331.31(a)(3)(i). (See discussion of the revised warning in comment 7 below.)

Reference

(1) Comment No. C00018, Docket No. 80N-0395, Dockets Management Branch.

7. One comment contended that the professional labeling warnings proposed in § 331.31(a)(3) for aluminum-containing antacids are inadequate because they do not discuss the direct toxicity of aluminum to bone tissue. Stating that the proposed professional warnings fail to discuss the large body of evidence which indicates that orally administered aluminum can accumulate in bone tissue and be harmful to the growth of bone, the comment included references from the scientific literature in support of this position (Ref. 1) and requested that the warnings be expanded to describe the toxic effects of aluminum to bone tissue.

The agency has reviewed all the available data on the relationship between aluminum-containing antacids and bone toxicity and concurs with the comment that the body of evidence presented supports expansion of the professional labeling warnings for aluminum-containing antacids in § 331.31(a)(3) of the antacid monograph. When the agency last evaluated this issue prior to publishing the proposed antacid monograph amendment to add professional labeling warnings for OTC aluminum-containing antacids (50 FR 2160 at 2165), the relationship of aluminum to bone disease was not established. There was even some doubt about the relationship of aluminum to encephalopathy (a toxic degeneration of the brain) at that time. Subsequently it has become clear that both encephalopathy and osteomalacia (softening of the bones) can be caused by long-term use of aluminum in renal dialysis patients. Therefore, in this amendment to the antacid monograph, the agency has reconsidered the proposed warnings and included information about the direct toxic effects of aluminum on bone mineralization in these patients.

Long-term use of aluminum-containing antacids contributes to dialysis osteomalacia (Refs. 2 through 10). Although only a small fraction of ingested aluminum is absorbed, that amount must be removed by functioning kidneys, bile secretion, or dialysis, or else it will accumulate. Dialysis does not remove aluminum well because the aluminum is bound to albumin and transferrin, which do not cross dialysis membranes (Ref. 11). When aluminum accumulates, it tends to be deposited in bone (Refs. 12 through 15) at the mineralization front, blocking mineralization of newly formed bone, increasing calcium loss from bone into serum, and producing osteomalacia (Refs. 16 through 20). The agency recognizes that renal osteodystrophy (defective bone formation) is very complicated and results not only from aluminum excess but also from hyperparathyroidism, acidosis, and abnormal metabolism of vitamin D, calcium, and phosphorus. These factors have little to do with aluminum excess (Refs. 21 and 22), and removal of aluminum will not correct any of these other factors. Nevertheless, the agency believes that the role of aluminum is significant and that attempts should be made to reduce its contribution to renal osteodystrophy.

In addition, the agency points out that the dialysis encephalopathy that was due to aluminum (as discussed above) resulted from two factors: (1) Oral aluminum-containing antacids taken as phosphate binders and (2) aluminum-containing dialysis fluids. Removal of aluminum from dialysis fluids has reduced the encephalopathy that was seen in association with dialysis.

For the above reasons, the agency is expanding and revising the warning in proposed § 331.31(a)(3)(i) to read as follows:

Prolonged use of aluminum-containing antacids in patients with renal failure may result in or worsen dialysis osteomalacia. Elevated tissue aluminum levels contribute to the development of the dialysis encephalopathy and osteomalacia syndromes. Small amounts of aluminum are absorbed from the gastrointestinal tract and renal excretion of aluminum is impaired in renal failure. Aluminum is not well removed by dialysis because it is bound to albumin and transferrin, which do not cross dialysis membranes. As a result, aluminum is deposited in bone, and dialysis osteomalacia may develop when large amounts of aluminum are ingested orally by patients with impaired renal function.

References

(1) Comment No. C00017, Docket No. 80N-0395, Dockets Management Branch.

(2) "Toxicologic Consequences of Oral Aluminum," *Nutrition Reviews*, 45:72-74, 1987.

(3) Milliner, D.S., et al., "Plasma Aluminum Levels in Pediatric Dialysis Patients: Comparison of Hemodialysis and Continuous Peritoneal Dialysis," *Mayo Clinic Proceedings*, 62:269-274, 1987.

(4) Hodsman, A.B., et al., "Do Serum Aluminum Levels Reflect Underlying Skeletal Aluminum Accumulation and Bone Histology Before or After Chelation by Deferoxamine?" *Journal of Laboratory and Clinical Medicine*, 16:674-681, 1985.

(5) Winney, R.J., J.F. Cowie, and J.S. Robson, "What is the Value of Plasma/Serum Aluminum in Patients With Chronic Renal Failure?" *Clinical Nephrology*, 24:S2-S8, 1985.

(6) Andreoli, S.P., J.A. Smith, and J.M. Bergstein, "Aluminum Bone Disease in Children: Radiographic Features from Diagnosis to Resolution," *Radiology*, 156:663-667, 1985.

(7) Recker, R.R., et al., "Evidence for Aluminum Absorption from the Gastrointestinal Tract and Bone Deposition by Aluminum Carbonate Ingestion with Normal Renal Function," *Journal of Laboratory and Clinical Medicine*, 90:810-815, 1977.

(8) Kaehny, W.D., A.P. Hegg, and A.C. Alfrey, "Gastrointestinal Absorption of Aluminum from Aluminum-Containing Antacids," *New England Journal of Medicine*, 296:1389-1390, 1977.

(9) McCarthy, J.T., et al., "Interpretation of Serum Aluminum Values in Dialysis Patients," *American Journal of Clinical Pathology*, 86:629-636, 1986.

(10) Monteagudo, F.S.E., M.J.D. Cassidy, and P.I. Folb, "Recent Developments in Aluminum Toxicology," *Medical Toxicology*, 4:1-16, 1989.

(11) Alfrey, A.C., "Aluminum Metabolism," *Kidney International*, 29 (Supplement 18): S-8-S-11, 1986.

(12) Kriegshauser, J.S., et al., "Aluminum Toxicity in Patients Undergoing Dialysis: Radiographic Findings and Prediction of Bone Biopsy Results," *Radiology*, 164:399-403, 1987.

(13) Ihle, B.U., G.J. Becker, and P.S. Kincaid-Smith, "Clinical and Biochemical Features of Aluminum-Related Bone Disease," *Kidney International*, 29 (Supplement 18): S-80-S-86, 1986.

(14) Andress, D.L., et al., "Early Deposition of Aluminum in Bone in Diabetic Patients on Hemodialysis," *New England Journal of Medicine*, 316:292-296, 1987.

(15) Chazan, J.A., "Aluminum in Bone in Diabetic Patients," *New England Journal of Medicine*, 317:386-387, 1987.

(16) O'Connor, M., et al., "Aluminum-Related Bone Disease: Correlation Between Symptoms, Osteoid Volume, and Aluminum Staining," *American Journal of Clinical Pathology*, 86:168–174, 1986.
(17) Andress, D.L., et al., "Osteomalacia and Aplastic Bone Disease in Aluminum-Related Osteodystrophy," *Journal of Clinical Endocrinology and Metabolism*, 65:11–16, 1987.
(18) Cournot-Witmer, G., et al., "Effect of Aluminum on Bone and Cell Localization," *Kidney International*, 29 (Supplement 18): S–37–S–40, 1986.
(19) Posner, A.S., N.C. Blumenthal, and A.L. Boskey, "Model of Aluminum-Induced Osteomalacia: Inhibition of Apatite Formation and Growth," *Kidney International*, 29 (Supplement 18): S–17–S–19, 1986.
(20) Dustan, C.R., et al., "Clinical Investigations: Effect of Aluminum and Parathyroid Hormone on Osteoblasts and Bone Mineralization in Chronic Renal Failure," *Calcified Tissue International*, 36:133–138, 1984.
(21) Slatopolsky, E., "The Interaction of Parathyroid Hormone and Aluminum in Renal Osteodystrophy," *Kidney International*, 31:842–854, 1987.
(22) Piraino, B.M., et al., "Spontaneous Hypercalcemia in Patients Undergoing Dialysis: Etiologic and Therapeutic Considerations," *American Journal of Medicine*, 80:607–615, 1986.

8. One comment requested that the agency accept the recommendation of the Miscellaneous Internal Panel that a warning be added to the labeling of OTC aluminum-containing antacid drug products to discourage their use, without the supervision of a physician, by patients with kidney disease (45 FR 81154 at 81157). The comment maintained that current medical literature indicates: (1) That children with renal failure are the most susceptible victims of aluminum intoxication from the use of OTC antacids and (2) that some adult patients suffering from aluminum intoxication have also benefited from restriction of aluminum-containing antacids. The comment cited clinical reports to support this position (Ref. 1). In addition, the comment stated that the agency's decision in the tentative final monograph (50 FR 2160 at 2163) against requiring such a warning is inconsistent with the comparable warning currently required in 21 CFR 331.30(c)(4) for magnesium-containing antacids, which states for products containing more than 50 milliequivalents (mEq) of magnesium in the recommended daily dosage: "Do not use this product except under the advice and supervision of a physician if you have kidney disease." The comment argued that the lack of a warning on OTC aluminum-containing antacids against their use by patients with kidney disease denies potential users of important information in their own health care or in the care they provide to a young child with kidney disease. The comment contended that the proposed professional labeling warnings will not be sufficient to get adequate information into the hands of individual users of OTC aluminum-containing antacids because these products are usually sold without a physician's supervision. Therefore, the comment requested that the agency add an appropriate statement to the labeling of OTC aluminum-containing antacids warning against use of these products by patients with kidney disease, without the supervision of a physician.

The Advisory Review Panel on OTC Antacid Drug Products in its report (38 FR 8714 at 8719) recommended that a warning was needed on OTC products to advise patients with kidney disease not to use magnesium-containing antacids that contain more than 50 mEq of magnesium in the recommended daily dose even when such use would not exceed the recommended 2-week limitation period. That Panel did not recommend a similar warning for OTC aluminum-containing antacids. The agency has considered the submitted information and all other available information and concludes that there is no evidence that short term (less than 2 weeks), intermittent use of antacids for OTC indications of heartburn, sour stomach, and/or acid indigestion produces aluminum intoxication in either adults or children. Therefore, on the basis of present safety evidence concerning aluminum-containing antacids, the 2-week limitation on use without a doctor's supervision, the intermittent nature of use (which is primarily by adults), and the warnings in the professional labeling section of the monograph which provide adequate information for health professionals to alert patients who will use these products for long periods of time, the agency concludes that a separate OTC warning is not indicated at this time.

Reference

(1) Comment No. C00017, Docket No. 80N–0395, Dockets Management Branch.

II. Summary of Significant Changes From the Proposed Rule

FDA has considered the comments and other relevant information and concludes that it will adopt the proposed rule (January 15, 1985; 50 FR 2160) with the changes described in FDA's responses to the comments above and with other changes described in the summary below.

1. The ingredient names aluminum carbonate and aluminum phosphate in 21 CFR 331.11(a) (1) and (4), respectively, are being changed to basic aluminum carbonate gel and aluminum phosphate gel, respectively, to be in accord with current names in the USAN and the USP Dictionary of Drug Names and the U.S.P. XXII/N.F. XVII.

2. The professional labeling warning concerning the effects of aluminum-containing antacids on patients with renal failure has been revised and expanded to address the direct toxic effects of aluminum on bone mineralization in these patients. (See comment 7 above.)

3. In the **Federal Register** of November 16, 1988 (53 FR 46190 at 46191), the agency proposed to redesignate the professional labeling section of the antacid monograph from § 331.31 to § 331.80 in accordance with the format of other recently published tentative final and final monographs. In this final rule, the redesignation of § 331.31 to § 331.80 is made final. Additionally, to conform with the format of other recently published tentative final and final monographs, the agency has reversed the order of the indication and warning statements in the professional labeling section. Therefore, the indications statement now appears as § 331.80(a)(3) and the warning statements now appear as § 331.80(a)(4) (i) and (ii).

III. The Agency's Final Conclusions on OTC Hypophosphatemia and Hyperphosphatemia Drug Products

The agency has determined that no OTC drug product has been found to be generally recognized as safe and effective and not misbranded for use in the treatment of hypophosphatemia or hyperphosphatemia. Therefore, all such drug products, including those containing the ingredients aluminum phosphate gel and basic aluminum carbonate gel, which were reviewed by the Panel, are considered nonmonograph and misbranded under section 502 of the act (21 U.S.C. 352) and are new drugs under section 201(p) of the act (21 U.S.C. 321(p)) for which an approved application under section 505 of the act (21 U.S.C. 355) and part 314 of the regulations (21 CFR part 314) is required for marketing. As an alternative, where there are adequate data establishing general recognition of safety and effectiveness, such data may be submitted in a citizen petition to establish a monograph for OTC drug products for the treatment of hypophosphatemia or hyperphosphatemia. (See 21 CFR 10.30.)

Any such OTC drug product initially introduced or initially delivered for introduction into interstate commerce after the effective date of this final rule that is not in compliance with the regulation is subject to regulatory action.

Although the agency has determined that OTC use of drug products for hypophosphatemia and hyperphosphatemia is not appropriate because such conditions are not amenable to self-diagnosis or self-treatment and treatment of these conditions should be restricted to the supervision of a physician, the agency acknowledges that cetain OTC antacid drug products are used to treat these conditions. Accordingly, the agency is amending the monograph for OTC antacid drug products to include professional labeling for the use of basic aluminum carbonate gel-containing antacid drug products in the treatment of hyperphosphatemia and professional labeling warnings addressing the effects of long-term use of aluminum-containing antacids for professional indications. This final rule also amends the ingredient listing for aluminum phosphate gel to state that this ingredient is for use only in combination with other OTC antacid ingredients.

No comments were received in response to the agency's request for specific comment on the economic impact of this rulemaking (50 FR 2160 at 2166). The agency has examined the economic consequences of this final rule in conjunction with other rules resulting from the OTC drug review. In a notice published in the **Federal Register** of February 8, 1983 (48 FR 5806), the agency announced the availability of an assessment of these economic impacts. The assessment determined that the combined impacts of all the rules resulting from the OTC drug review do not constitute a major rule according to the criteria established by Executive Order 12291. The agency therefore concludes that no one of these rules, including this final rule for OTC hypophosphatemia and hyperphosphatemia drug products, is a major rule.

The economic assessment also concluded that the overall OTC drug review was not likely to have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (Pub. L. 96-354). That assessment included a discretionary Regulatory Flexibility Analysis in the event that an individual rule might impose an unusual or disproportionate impact on small entities. However, this particular rulemaking for OTC hypophosphatemia and hyperphosphatemia drug products is not expected to pose such an impact on small businesses. Therefore, the agency certifies that this final rule will not have a significant economic impact on a substantial number of small entities.

The agency has determined under 21 CFR 25.24(c)(6) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR

Part 310: Administrative practice and procedure, Drugs, Labeling, Medical devices, Reporting and recordkeeping requirements.

Part 331: Antacid drug products, Labeling, Over-the-counter drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and the Administrative Procedure Act, subchapter D of chapter I of title 21 of the Code of Federal Regulations is amended as follows:

PART 310—NEW DRUGS

1. The authority citation for 21 CFR part 310 continues to read as follows:

Authority: Secs. 201, 301, 501, 502, 503, 505, 506, 507, 512–516, 520, 601(a), 701, 704, 705, 706 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 351, 352, 353, 355, 356, 357, 360b–360f, 360j, 361(a), 371, 374, 375, 376); secs. 215, 301, 302(a), 351, 354–360F of the Public Health Service Act (42 U.S.C. 216, 241, 242(a), 262, 263b–263n).

2. Sections 310.541 and 310.542 are added to subpart E to read as follows:

§ 310.541 Over-the-counter (OTC) drug products containing active ingredients offered for use in the treatment of hypophosphatemia.

(a) Hypophosphatemia is a condition in which an abnormally low plasma level of phosphate occurs in the blood. This condition is not amenable to self-diagnosis or self-treatment. Treatment of this condition should be restricted to the supervision of a physician. For this reason, any drug product containing ingredients offered for OTC use in the treatment of hypophosphatemia cannot be considered generally recognized as safe and effective.

(b) Any drug product that is labeled, represented, or promoted for OTC use in the treatment of hypophosphatemia is regarded as a new drug within the meaning of section 201(p) of the Federal Food, Drug, and Cosmetic Act (the act), for which an approved application under section 505 of the act and part 314 of this chapter is required for marketing. In the absence of an approved application, such product is also misbranded under section 502 of the act.

(c) Clinical investigations designed to obtain evidence that any drug product labeled, represented, or promoted for OTC use in the treatment of hypophosphatemia is safe and effective for the purpose intended must comply with the requirements and procedures governing the use of investigational new drugs set forth in Part 312 of his chapter.

(d) After November 12, 1990, any such OTC drug product initially introduced or initially delivered for introduction into interstate commerce that is not in compliance with this section is subject to regulatory action.

§ 310.542 Over-the-counter (OTC) drug products containing active ingredients offered for use in the treatment of hyperphosphatemia.

(a) Hyperphosphatemia is a condition in which an abnormally high plasma level of phosphate occurs in the blood. This condition in not amenable to self-diagnosis or self-treatment. Treatment of this condition should be restricted to the supervision of a physician. For this reason, any drug product containing ingredients offered for OTC use in the treatment of hyperphosphatemia cannot be considered generally recognized as safe and effective.

(b) Any drug product that is labeled, represented, or promoted for OTC use in the treatment of hyperphosphatemia is regarded as a new drug within the meaning of section 201(p) of the Federal Food, Drug, and Cosmetic Act (the act), for which an approved application under section 505 of the act and part 314 of this chapter is required for marketing. In the absence of an approved application, such product is also misbranded under section 502 of the act.

(c) Clinical investigations designed to obtain evidence that any drug product labeled, represented, or promoted for OTC use in the treatment of hyperphosphatemia is safe and effective for the purpose intended must comply with the requirements and procedures governing use of investigational new drugs set forth in part 312 of this chapter.

(d) After November 12, 1990, any such OTC drug product initially introduced or initially delivered for introduction into interstate commerce that is not in compliance with this section is subject to regulatory action.

PART 331—ANTACID PRODUCTS FOR OVER-THE-COUNTER (OTC) HUMAN USE

3. The authority citation for 21 CFR part 331 continues to read as follows:

Authority: Secs. 201, 501, 502, 503, 505, 510, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 351, 352, 353, 355, 360, 371).

4. Section 331.11 is amended by revising paragraphs (a) (1) and (4) to read as follows:

§ 331.11 Listing of specific active ingredients.

(a) * * *

(1) Basic aluminum carbonate gel.

* * * * *

(4) Aluminum phosphate gel when used as part of an antacid combination product and contributing at least 25 percent of the total acid neutralizing capacity; maximum daily dosage limit is 8 grams.

* * * * *

5. Section 331.31 is redesignated as § 331.80 and new paragraphs (a) (3) and (4) are added to read as follows:

§ 331.80 Professional labeling.

(a) * * *

(3) *For products containing basic aluminum carbonate gel identified in § 331.11(a)(1)—Indication.* "For the treatment, control, or management of hyperphosphatemia, or for use with a low phosphate diet to prevent formation of phosphate urinary stones, through the reduction of phosphates in the serum and urine."

(4) *For products containing aluminum identified in § 331.11(a)—Warnings.* (i) Prolonged use of aluminum-containing antacids in patients with renal failure may result in or worsen dialysis osteomalacia. Elevated tissue aluminum levels contribute to the development of the dialysis encephalopathy and osteomalacia syndromes. Small amounts of aluminum are absorbed from the gastrointestinal tract and renal excretion of aluminum is impaired in renal failure. Aluminum is not well removed by dialysis because it is bound to albumin and transferrin, which do not cross dialysis membranes. As a result, aluminum is deposited in bone, and dialysis osteomalacia may develop when large amounts of aluminum are ingested orally by patients with impaired renal function.

(ii) Aluminum forms insoluble complexes with phosphate in the gastrointestinal tract, thus decreasing phosphate absorption. Prolonged use of aluminum-containing antacids by normophosphatemic patients may result in hypophosphatemia if phosphate intake is not adequate. In its more severe forms, hypophosphatemia can lead to anorexia , malaise, muscle weakness, and osteomalacia.

* * * * *

Dated: March 27, 1990.

James S. Benson,

Acting Commissioner of Food and Drugs.

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Friday
May 11, 1990

Part IV

Department of Health and Human Services

Food and Drug Administration

21 CFR Part 357

Deodorant Drug Products for Internal Use for Over-the-Counter Human Use; Final Monograph; Final Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

21 CFR Part 357

[Docket No. 81N-0064]

RIN 0905-AA06

Deodorant Drug Products for Internal Use for Over-the-Counter Human Use; Final Monograph

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule in the form of a final monograph establishing conditions under which over-the-counter (OTC) deodorant drug products for internal use (drug products taken internally to reduce odors arising from conditions such as colostomies, ileostomies, or fecal incontinence) are generally recognized as safe and effective and not misbranded. FDA is issuing this final rule after considering public comments on the agency's proposed regulation, which was issued in the form of a tentative final monograph, and all new data and information on deodorant drug products for internal use that have come to the agency's attention. This final monograph is part of the ongoing review of OTC drug products conducted by FDA.

EFFECTIVE DATE: May 13, 1991.

FOR FURTHER INFORMATION CONTACT: William E. Gilbertson, Center for Drug Evaluation and Research (HFD-210), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8000.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of January 5, 1982 (47 FR 512), FDA published, under § 330.10(a)(6) (21 CFR 330.10(a)(6)), an advance notice of proposed rulemaking to establish a monograph for OTC deodorant drug products for internal use, together with the recommendations of the Advisory Review Panel on OTC Miscellaneous Internal Drug Products (Miscellaneous Internal Panel), which was the advisory review panel responsible for evaluating data on the active ingredients in this drug class. Interested persons were invited to submit comments by April 5, 1982. Reply comments in response to comments filed in the initial comment period could be submitted by May 5, 1982.

In accordance with § 330.10(a)(10), the data and information considered by the Panel were put on display in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, after deletion of a small amount of trade secret information.

The agency's proposed regulation, in the form of a tentative final monograph, for OTC deodorant drug products for internal use was published in the **Federal Register** of June 17, 1985 (50 FR 25162). Interested persons were invited to file by August 16, 1985, written comments, objections, or requests for oral hearing before the Commissioner of Food and Drugs regarding the proposal. Interested persons were invited to file comments on the agency's economic impact determination by October 15, 1985. New data could have been submitted until June 17, 1986, and comments on the new data until August 18, 1986. Final agency action occurs with the publication of this final monograph, which is a final rule establishing a monograph for OTC deodorant drug products for internal use.

The OTC drug procedural regulations (21 CFR 330.10) now provide that any testing necessary to resolve the safety or effectiveness issues that formerly resulted in a Category III classification, and submission to FDA of the results of that testing or any other data, must be done during the OTC drug rulemaking process before the establishment of a final monograph. Accordingly, FDA is no longer using the terms "Category I" (generally recognized as safe and effective and not misbranded), "Category II" (not generally recognized as safe and effective or misbranded), and "Category III" (available data are insufficient to classify as safe and effective, and further testing is required) at the final monograph stage, but is using instead the terms "monograph conditions" (old Category I) and "nonmonograph conditions" (old Categories II and III).

As discussed in the proposed regulation for OTC deodorant drug products for internal use, the agency advised that the conditions under which the drug products that are subject to this monograph will be generally recognized as safe and effective and not misbranded (monograph conditions) will be effective 12 months after the date of publication in the **Federal Register**. Therefore, on or after May 13, 1991, no OTC drug product that is subject to the monograph and that contains a nonmonograph condition, i.e., a condition that would cause the drug to be not generally recognized as safe and effective or to be misbranded, may be initially introduced or initially delivered for introduction into interstate commerce unless it is the subject of an approved new drug application. Further, any OTC drug product subject to this monograph that is repackaged or relabeled after the effective date of the monograph must be in compliance with the monograph regardless of the date the product was initially introduced or initially delivered for introduction into interstate commerce. Manufacturers are encouraged to comply voluntarily with the monograph at the earliest possible date.

In response to the proposed rule on OTC deodorant drug products for internal use, one drug manufacturer submitted a comment. A copy of the comment received is on public display in the Dockets Management Branch (address above). Any additional information that has come to the agency's attention since publication of the proposed rule is also on public display in the Dockets Management Branch.

All "OTC Volumes" cited throughout this document refer to the submissions made by interested persons pursuant to the call-for-data notice published in the **Federal Register** of November 16, 1973 (38 FR 31696), or to additional information that has come to the agency's attention since publication of the notice of proposed rulemaking. The volumes are on public display in the Dockets Management Branch.

I. The Agency's Conclusions on the Comment

One comment requested that the agency's proposed oral dosage of 100 to 200 milligrams (mg) daily of chlorophyllin copper complex for adults and children 12 years of age and over be changed to be "100 to 200 mg daily or up to 800 mg daily in divided doses as required." Noting that the normal dosage should be 100 to 200 mg daily, the comment stated that a higher dosage of up to 800 mg may be required in some cases and cited as support three previously submitted studies in which chlorophyllin copper complex was used as an internal deodorant at various dosage levels ranging from 100 to 800 mg daily (Refs. 1, 2, and 3). The comment also noted that the Miscellaneous Internal Panel found chlorophyllin copper complex to be safe up to 800 mg daily in divided doses and that few side effects had been reported at this dosage level (47 FR 512 at 517). The comment stated that the current label dosage for its chlorophyllin copper complex product is one or more tablets daily as required and that the package insert states that one to two tablets three or four times daily may be required initially, followed by a reduction to a maintenance level of one to three tablets daily as required. The comment added that its product has been marketed for

almost 30 years with these directions with few reports of side effects. The comment maintained that the dosage of chlorophyllin copper complex should be revised to provide flexibility for patients to use and for doctors to recommend higher doses than those proposed in the tentative final monograph. The comment concluded that a dosage of up to 800 mg daily is justified based on the product's marketing history, the Miscellaneous Internal Panel's findings that 800 mg of chlorophyllin copper complex is safe, and the submitted references (Refs. 1, 2, and 3).

The agency has reviewed and evaluated the studies referred to by the comment (Refs. 1, 2, and 3) and other available data (Refs. 4, 5, and 6) and concludes that the date are insufficient to support a change in the maximum daily OTC dosage for chlorophyllin copper complex from 200 mg to 800 mg. However, the agency concludes that the data support an increase in dosage of up to 300 mg daily, in divided doses.

In the first study cited by the comment, a group of 22 patients with offensive odors arising from colostomies, ileostomies, and chronically infected surface ulcerations received chlorophyllin copper complex in a tablet form for oral administration (Ref. 1). The study covered a two-year period. The dosage varied in individual cases and ranged from one 100 mg tablet once daily, to two 100 mg tablets three times daily, depending on the nature of the food ingested and the frequency of changing or emptying bags. Placebo substances identical in appearance with the chlorophyll preparations were substituted from time to time, and almost without exception distressing odors reappeared. Odor was satisfactorily eliminated in all cases involving colostomy and ileostomy patients following oral administration of chlorophyllin copper complex tablets. The investigators noted that odor was easier to control in colostomy patients and that, after several weeks, these patients were able to control odor and discharge with irrigations alone, although in many cases they desired the extra protection of the tablets. In this study, three pilonidal cystectomy patients (i.e., patients with chronically infected sacrococcygeal cysts treated by the open wound method) required the larger dose of chlorophyllin copper complex (800 mg) to effectively control the overwhelming odor associated with this condition. The investigators found that an increase to two 100 mg doses four times daily, effectively eliminated the odor with no adverse side effects.

In the second study cited by the comment, 62 geriatric nursing home patients (32 of whom were incontinent and had a foul fecal odor) were given a usual dosage of one 100 mg tablet three times daily for the first 7 to 10 days, and thereafter one 100 mg tablet twice daily for a period of 6 months (Ref. 2). This dosage of chlorophyllin copper complex was found to be at least 85 percent effective in controlling body and fecal odor. No unfavorable side effects were observed.

In the third study cited by the comment, nine patients with urinary and/or fecal incontinence rated as causing "strong odor" were treated with one 100 mg tablet daily for a 30-day period (Ref. 3). Prior to administration of the deodorant, there was a 7-day control period in which evaluations of the ward were made to established a base level against which to compare subsequent progress. The author reported that seven of these patients responded promptly to the treatment and were virtually odorless by the seventh day. Of the two patients who did not respond to one 100 mg tablet daily, one was later given a dosage of two 100 mg tablets per day with the higher dosage effectively controlling the odor.

In the first of three additional studies available to the agency, involving 18 incontinent nursing home patients, it was reported that a rigid schedule of toilet checks and immediate clean up controlled fecal odor but had little effect on urine odors that pervaded the floor (Ref. 4). Nine of the 18 patients were given one tablet per day containing 100 mg of chlorophyllin while the other 9 were continued on the other rigid clean-up schedule. The author reported that within two days the odor was noticeablely reduced and within seven days the urinary odor was completely eliminated. The author further reported that during the following 2-year period, the tablets were used by the nine patients in the study and other incontinent patients and there was neither any diminution in the effectiveness of the odor control nor the appearance of any undesirable side effects.

In the second additional study, 15 ostomy patients (7 ileostomy, 7 colostomy, and 1 cecostomy) took the recommended initial dosage of chlorophyllin copper complex of one 100 mg tablet twice daily; but patients were advised to increase the dosage to 3 or 4 tablets a day or to reduce the dosage to 1 per day at their own discretion depending on the control of odor (Ref. 5). The investigator reported that excellent results were obtained in 14 out of 15 cases with little difference in effect between 2 or 3 100 mg tablets daily; however, in 2 of these patients some odor reappeared when the daily dosage was decreased from three to two 100 mg tablets.

The one unsuccessful case in which odor was not controlled involved a colostomy patient who also developed excess gas and diarrhea while taking the tablets. The symptoms disappeared when the dosage was discontinued. No definite toxicity or side reactions were encountered, although in one patient, a dosage of two 100 mg tablets daily produced cramps. The cramps were eliminated when the dosage was reduced to one 100 mg tablet daily.

In the third additional study, which was conducted over a 2-year period, 20 female mental patients were given 100 mg of chlorophyllin per day (Ref. 6). Seventy-five percent of the patients were treated for malodorous odor resulting from surface lesions, while the remaining 25 percent included incontinent or bed-pan patients with fecal and/or urine incontinence. Within 5 to 6 days, the odor was almost completely gone. Results were reported to be uniformly good over the entire study period. There were no side effects other than an occasional, mild diarrhea.

After reevaluating the above studies and other available data, the agency has determined there are insufficient data demonstrating that a dosage above 300 mg is generally necessary or used to effectvely control odor in ostomy or fecal incontinent patients. Although three pilonidal cystectomy patients were given up to four 200 mg doses of chlorophyllin copper complex daily in one of the cited studies (Ref. 1), there is no indication that this dosage was necessary for the ostomy and incontinent patients included in the study. Other studies indicate that satisfactory results in colostomy patients have been achieved with lower doses ranging from 56 to 112 mg per day (Refs. 7 and 8). The agency has not received any other data that support the regular use of chlorophyllin copper complex in a dosage of above 300 mg up to 800 mg per day. The agency has determined that the available data indicate that, in most cases involving odors due to colostomies, ileostomies, and fecal incontinence, most patients respond well to one or two 100 mg doses of chlorophyllin copper complex daily. However, some of the studies indicate that 300 mg daily is needed in some cases to effectively control the odor (Refs. 2 and 5). Therefore, in this final monograph, the agency is revising the directions for chlorophyllin copper

complex to include a dose of up to 300 mg as follows: "Adults and children 12 years of age and over: Oral dosage is 100 to 200 milligrams daily in divided doses as required. If odor is not controlled, take up to an additional 100 milligrams daily in divided doses as required. The smallest effective dose should be used. Do not exceed 300 milligrams daily. Children under 12 years of age: consult a doctor."

Additionally, based on the side effects that occurred (Refs. 5 and 6), the agency is adding a warning for products containing chlorophyllin copper complex to the final monograph that states: "If cramps or diarrhea occurs, reduce the dosage. If symptoms persist, consult your doctor." This warning is also consistent with the revised directions to use the smallest effective dose of the product.

The agency's detailed comments and evaluations on the data are on file in the Dockets Management Branch (Ref. 9).

References

(1) Golden, T., and J.F. Burke, "Effective Management of Offensive Odors," *Gastroenterology*, 31:260–265, 1956.

(2) Young R.W., and J.S. Beregi, Jr., "Use of Chlorophyllin in the Care of Geriatric Patients," *Journal of the American Geriatrics Society*, 28:46–47, 1980.

(3) Noonan, L., "Summary of Derifil Tablets Trial," unpublished study, Rockland State Hospital, Orangeburg, NY, April 1972, contained in OTC volume 170014 (Exhibit Y), Docket No. 81N–0064, Dockets Management Branch.

(4) Dory, A.E., "The Control of Odor in Urinary Incontinence," *Nursing Homes*, 20:28, 1971.

(5) Siegel, L.H., "The Control of Ileostomy and Colostomy Odors," *Gastroenterology*, 38:634–636, 1960.

(6) O'Connell, I.O., "A Useful Adjunct For Odor Control In Malodorous Surface Lesions and Incontinence," *Journal of the Central Islip State Hospital*, 1:23–26, 1967–1968.

(7) Joseph, M., "The Control of Fecal Odors with Chlorophyll Tablets," *Western Journal of Surgery, Obstetrics and Gynecology*, 60:363–364, 1952.

(8) Weingarten, M., and B. Payson, "Deodorization of Colostomies with Chlorophyll," *The Review of Gastroenterology*, 18:602–604, 1951.

(9) Letter from W.E. Gilbertson, FDA, to H. Wagner, Rystan Company, Inc., coded LET4, Docket No. 81N–0064, Dockets Management Branch.

II. Summary of Significant Changes From the Proposed Rule

1. In the tentative final monograph published in the **Federal Register** of June 17, 1985, (50 FR 25162 at 25167) at § 357.850(b)(2)(ii), the agency proposed the indication "an aid to reduce fecal or urinary odor due to incontinence" for chlorophyllin copper complex when used in the dosage range of 100 to 200 mg daily. However, since the publication of the tentative final monograph, the agency has become aware of new data suggesting that chlorophyllin copper complex may not be effective for the reduction of odor due to urinary incontinence.

In a 5-week randomized, double-blind, crossover, placebo-controlled study, Nahata, Slencsak, and Kamp (Ref. 1) evaluated the effect of chlorophyllin on urinary odor due to incontinence. Twenty incontinent geriatric patients having indwelling Foley catheters were given either 100 mg chlorophyllin or placebo once daily for two weeks. The third week served as a washout period, after which the patients were placed on another regimen in a crossover fashion, for the next two weeks. The intensity of urinary odor was measured by using a 10-centimeter visual analog scale with 0 representing no odor and 10 representing maximum, severe, terrible odor. Urine samples were collected, covered, and taken to a room with no odor. Urinary odor intensity was measured on alternate days during the first week (weeks 1 and 4) and daily during the second week (weeks 2 and 5) of chlorophyllin and placebo administration. Statistical analysis of the data using analysis of variance (ANOVA) showed no significant difference (p greater than 0.05) in the mean intensity of urinary odor during chlorophyllin, washout, and placebo periods. None of the patients exhibited any adverse effects during the entire study period. The results of this study suggest that chlorophyllin in a dosage of 100 mg daily for two weeks may not be effective in incontinent geriatric patients with mild to moderate urinary odor.

Of the studies previously available to the agency and cited in the tentative final monograph (50 FR 25162 at 25164), only one uncontrolled study by Dory (see Part I above) evaluated the effectiveness of chlorophyllin in a dosage of 100 mg per day for the reduction of the odor of urinary incontinence alone (Ref. 2). In the Dory study only nine patients received chlorophyllin and in the other submitted studies, reduction of odors of fecal and urinary incontinence was not treated separately. No data have been submitted to demonstrate that chlorophyllin is metabolized from the gastrointestinal tract and is made available for excretion by the urinary system. Therefore, because of conflicting and insufficient data, labeling claims for reduction of odor due to urinary incontinence are not being included in this final monograph. Data from well-controlled clinical trials are necessary to support the use of chlorophyllin copper complex for reduction of odors due to urinary incontinence.

Additionally, the agency has revised the definition of deodorants for internal use in this final monograph to be consistent with the indication for use included in the monograph. (See § 357.803(b) below.)

References

(1) Nahata, M. C., C. A. Slencsak, and J. Kamp, "Effect of Chlorophyllin on Urinary Odor in Incontinent Geriatric Patients", *Drug Intelligence and Clinical Pharmacy*, 17:732–734, 1983).

(2) Dory, A.E., "The Control of Odor in Urinary Incontinence," *Nursing Homes*, 20:28, 1971.

2. The agency has added a warning related to cramps and diarrhea for products containing chlorophyllin copper complex. (See Part I above.)

3. The agency has revised the directions in § 357.850(d)(2) for chlorophyllin copper complex as follows: *For products containing chlorophyllin copper complex identified in § 357.810(b).* Adults and children 12 years of age and over: Oral dosage is 100 to 200 milligrams daily in divided doses as required. If odor is not controlled, take up to an additional 100 milligrams daily in divided doses as required. The smallest effective dose should be used. Do not exceed 300 milligrams daily. Children under 12 years of age: consult a doctor. (See Part I above.)

III. The Agency's Final Conclusions on OTC Deodorant Drug Products for Internal Use

Based on the available evidence, the agency is issuing a final monograph establishing conditions under which OTC deodorant drug products for internal use are generally recognized as safe and effective and not misbranded. Specifically, the agency has determined that the ingredients bismuth subgallate and chlorophyllin copper complex are generally recognized as safe and effective for use as an aid to reduce odor from a colostomy or ileostomy.

The agency is not aware of adequate data demonstrating the safety and effectiveness of any other ingredients as OTC deodorant drug products for internal use. Therefore all other ingredients, including but not limited to activated charcoal, are considered nonmonograph conditions for use as OTC deodorant drug products for internal use. Any drug product marketed as an OTC deodorant for internal use that is not in conformance with the monograph (21 CFR Part 357, Subpart I) may be considered a new drug within

the meaning of section 201(p) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321(p)) and misbranded under section 502 of the act (21 U.S.C. 352) and may not be marketed for this use unless it is the subject of an approved new drug application (NDA). An appropriate citizen petition to amend the monograph may also be submitted under 21 CFR 10.30.

No comments were received in response to the agency's request for specific comment on the economic impact of this rulemaking (50 FR 25162 at 25166). The agency has examined the economic consequences of this final rule in conjunction with other rules resulting from the OTC drug review. In a notice published in the **Federal Register** of February 8, 1983 (48 FR 5806), the agency announced the availability of an assessment of these economic impacts. The assessment determined that the combined impacts of all the rules resulting from the OTC drug review do not constitute a major rule according to the criteria established by Executive Order 12291. The agency therefore concludes that not one of these rules, including this final rule for OTC deodorant drug products for internal use, is a major rule.

The economic assessment also concluded that the overall OTC drug review was not likely to have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (Pub. L. 96-354). That assessment included a discretionary regulatory flexibility analysis in the event that an individual rule might impose an unusual or disproportionate impact on small entities. However, this particular rulemaking for OTC deodorant drug products for internal use is not expected to pose such an impact on small businesses. Therefore, the agency certifies that this final rule will not have a significant economic impact on a substantial number of small entities.

The agency has determined under 21 CFR 25.24(c)(6) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 357

Internal deodorant drug products, Labeling, Over-the-counter drugs, Recordkeeping and reporting requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and the Administrative Procedure Act, subchapter D of chapter I of title 21 of the Code of Federal Regulations is amended in part 357 as follows:

PART 357—MISCELLANEOUS INTERNAL DRUG PRODUCTS FOR OVER-THE-COUNTER HUMAN USE

1. The authority citation for 21 CFR Part 357 continues to read as follows:

Authority: Secs. 201, 501, 502, 503, 505, 510, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 351, 352, 353, 355, 360, 371).

2. Part 357 is amended by adding new Subpart H and reserving it, and by adding new Subpart I consisting of §§ 357.801 to 357.850 to read as follows:

Subpart H—[Reserved]

Subpart I—Deodorant Drug Products for Internal Use

Sec.
357.801 Scope.
357.803 Definitions.
357.810 Active ingredients for deodorant drug products for internal use.
357.850 Labeling of deodorant drug products for internal use.

Subpart I—Deodorant Drug Products for Internal Use

§ 357.801 Scope.

(a) An over-the-counter deodorant drug product for internal use in a form suitable for oral administration is generally recognized as safe and effective and is not misbranded if it meets each condition in this subpart and each general condition established in § 330.1 of this chapter.

(b) References in this subpart to regulatory sections of the Code of Federal Regulations are to chapter I of title 21 unless otherwise noted.

§ 357.803 Definitions.

As used in this subpart:

(a) *Colostomy.* An external operative opening of the colon.

(b) *Deodorant for internal use.* An ingredient taken internally to reduce odors arising from conditions such as colostomies, ileostomies, or fecal incontinence.

(c) *Ileostomy.* An external operative opening from the ileum.

(d) *Incontinence.* An inability to retain urine or feces.

§ 357.810 Active ingredients for deodorant drug products for internal use.

The active ingredient of the product consists of either of the following when used within the dosage limits established for each ingredient in § 357.850(d):

(a) Bismuth subgallate.

(b) Chlorophyllin copper complex.

§ 357.850 Labeling of deodorant drug products for internal use.

(a) *Statement of identity.* The labeling of the product contains the established name of the drug, if any, and identifies the product as a "deodorant for internal use" or as a "colostomy or ileostomy deodorant."

(b) *Indications.* The labeling of the product states, under the heading "Indications," any of the phrases listed in paragraph (b) of this section as appropriate. Other truthful and nonmisleading statements, describing only the indications for use that have been established and listed in paragraph (b) of this section may also be used, as provided in § 330.1(c)(2) of this chapter, subject to the provisions of section 502 of the Federal Food, Drug, and Cosmetic Act (the act) relating to misbranding and the prohibition in section 301(d) of the act against the introduction or delivery for introduction into interstate commerce of unapproved new drugs in violation of section 505(a) of the act.

(1) *For products containing bismuth subgallate identified in § 357.810(a).* "An aid to reduce odor from a colostomy or ileostomy."

(2) *For products containing chlorophyllin copper complex identified in § 357.810(b).* (i) "An aid to reduce odor from a colostomy or ileostomy."

(ii) "An aid to reduce fecal odor due to incontinence."

(c) *Warnings.* The labeling of the product contains the following warnings under the heading "Warnings": (1) *For products containing chlorophyllin copper complex identified in § 357.810(b).* (i) "If cramps or diarrhea occurs, reduce the dosage. If symptoms persist, consult your doctor."

(ii) The warning required by § 330.1(g) of this chapter concerning overdose is not required on products containing chlorophyllin copper complex identified in § 357.810(b).

(2) [Reserved]

(d) *Directions.* The labeling of the product contains the following information under the heading "Directions."

(1) *For products containing bismuth subgallate identified in § 357.810(a).* Adults and children 12 years of age and over: Oral dosage is 200 to 400 milligrams up to 4 times daily. Children under 12 years of age: consult a doctor.

(2) *For products containing chlorophyllin copper complex identified in § 357.810(b).* Adults and children 12 years of age and over: Oral dosage is 100 to 200 milligrams daily in divided doses as required. If odor is not controlled, take up to an additional 100 milligrams daily in divided doses as

required. The smallest effective dose should be used. Do not exceed 300 milligrams daily. Children under 12 years of age: consult a doctor.

Dated: March 27, 1990.

James S. Benson,

Acting Commissioner of Food and Drugs.

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federal register

Friday,
May 11, 1990

Part V

Department of Health and Human Services

Food and Drug Administration

21 CFR Parts 333, 448

Topical Antimicrobial Drug Products for Over-the-Counter Human Use; Proposed Amendment of Final Monograph for OTC First Aid Antibiotic Drug Products; Proposed Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 333 and 448

[Docket No. 76N-482A]

RIN 0905-AA06

Topical Antimicrobial Drug Products for Over-the-Counter Human Use; Proposed Amendment of Final Monograph for OTC First Aid Antibiotic Drug Products

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a notice of proposed rulemaking that would amend the final monograph for over-the-counter (OTC) first aid antibiotic drug products in 21 CFR part 333 that establishes conditions under which these drug products are generally recognized as safe and effective and not misbranded. The amendment would revise the standards for bacitracin zinc-polymyxin B sulfate topical aerosol. FDA is concurrently amending the antibiotic regulations in 21 CFR part 448 to be consistent with the monograph for OTC first aid antibiotic drug products. This proposal is a part of the ongoing review of OTC drug products conducted by FDA.

DATES: Written comments by July 10, 1990. Requests for an informal conference on proposed change in § 448.513e(a)(1) by June 11, 1990.

ADDRESSES: Written comments or request for conference on proposed change in § 448.513e to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William E. Gilbertson, Center for Drug Evaluation and Research (HFD-210), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8000.

SUPPLEMENTARY INFORMATION: In the Federal Register of December 11, 1987 (52 FR 47312), FDA issued a final monograph for OTC first aid antibiotic drug products (21 CFR part 333, subpart B). The monograph provides for bacitracin zinc-polymyxin B sulfate topical aerosol containing, in each 90-gram container, 10,000 units of bacitracin and 200,000 units of polymyxin B (§ 333.120(a)(7)) (21 CFR 333.120(a)(7)).

On June 3, 1988, FDA received a citizen petition (Docket No. 76N-0482/CP) requesting the amendment of § 333.120(a)(7) to delete the "90-gram" specification for the container size so that § 333.120(a)(7) would be consistent with the antibiotic regulation in § 448.513e(a)(1) which does not specify a container size for bacitracin zinc-polymyxin B sulfate topical aerosol.

On October 13, 1989, FDA received an amendment to the citizen petition (Docket No. 76N-0482/AMD1) requesting that § 333.120(a)(7) be revised to state the concentration of antibiotics contained in each gram, rather than the current designation of the concentration of antibiotics contained in each "90-gram" container. The petitioner stated that vehicles and/or inert gases that could be used in the aerosol product vary in specific gravity and/or weight. The petitioner mentioned that if it wished to reformulate the product to change, add, or delete either the "suitable vehicle" or the "suitable inert gases," the final product would still provide the same number of units of antibiotics but the total container content might be at variance from the required 90 grams. Accordingly, the petitioner requested that § 333.120(a)(7) be revised to read "Bacitracin zinc-polymyxin B sulfate topical aerosol containing, in each gram, 120 units of bacitracin zinc and 2,350 units of polymyxin B * * *." The petitioner concluded that this approach would be consistent with other monograph listings in §§ 333.110 and 333.120.

In developing the final monograph for OTC first aid antibiotic drug products, the agency stated that the dosage forms included in the monograph reflect those dosage forms currently identified in subpart F of the specific antibiotic regulations that apply to first aid antibiotics (52 FR 47312 at 47313). Although § 448.513e does not state a container size, as the petitioner noted, that particular section of the antibiotic regulations was based on an approved new drug application (NDA) for an aerosol product in a 90-gram container. When the final monograph for OTC first aid antibiotic drug products was prepared, it was necessary to state therein the size of the container to inform other manufacturers of the amount of antibiotics per total container size. After publication of the final monograph for OTC first aid antibiotic drug products, the agency was notified that the underlying NDA for the aerosol product had been amended to provide for a change in the container size from a 90-gram container to an 85-gram container, as allowed under § 314.70(d) (21 CFR 314.70(d)). The amount of antibiotics per 85-gram container remained the same in accord with § 448.513e(a)(1): 10,000 units of bacitracin and 200,000 units of polymyxin B. These amounts are equivalent to 117.65 units of bacitracin per gram and 2352.94 units of polymyxin B per gram, and are very close to the rounded-off amounts requested by the petitioner.

After reviewing the citizen petition, the agency agrees that it would be appropriate to revise §§ 333.120(a)(7) and 448.513e(a)(1) to state the concentration of antibiotics contained in each gram of the final product. This proposed amendment would allow manufacturers to market other size aerosol products containing these antibiotics and would allow greater flexibility in reformulating existing products if the manufacturer elected to change the suitable vehicle and/or inert gases. Therefore, the agency is proposing to amend the final monograph for OTC first aid antibiotic drug products in § 333.120(a)(7) and the existing antibiotic regulation in § 448.513e(a)(1) to provide for bacitracin zinc-polymyxin B sulfate topical aerosol containing, in each gram, 120 units of bacitracin and 2,350 units of polymyxin B. In addition, the agency is correcting an error that currently exists in § 448.513e(a)(1): 120 percent should read 130 percent.

The agency advises that any final rule resulting from this proposed rule will be effective 12 months after its date of publication in the Federal Register. On or after that date, any OTC drug product that is not in compliance may not be initially introduced or initially delivered for introduction into interstate commerce unless it is the subject of an approved application. Further, any OTC drug product subject to the rule that is repackaged or relabeled after the effective date of the rule must be in compliance with the rule regardless of the date the product was initially introduced into interstate commerce. Manufacturers are encouraged to comply voluntarily with the rule at the earliest possible date.

The agency has examined the economic consequences of this proposed rulemaking in conjunction with other rules resulting from the OTC drug review. In a notice published in the Federal Register of February 8, 1983 (48 FR 5806), the agency announced the availability of an assessment of these economic impacts. The assessment determined that the combined impacts of all the rules resulting from the OTC drug review do not constitute a major rule according to the criteria established by Executive Order 12291. The agency therefore concludes that no one of these rules, including this proposed rule for

OTC first aid antibiotic drug products, is a major rule.

The economic assessment also concluded that the overall OTC drug review was not likely to have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (Pub. L. 96–354). That assessment included a discretionary regulatory flexibility analysis in the event that an individual rule might impose an unusual or disproportionate impact on small entities. However, this particular rulemaking for OTC first aid antibiotic drug products is not expected to pose such an effect on small businesses. Therefore, the agency certifies that this proposed rule, if implemented, will not have a significant economic impact on a substantial number of small entities.

The agency invites public comment regarding any substantial or significant economic impact that this rulemaking would have on OTC first aid antibiotic drug products. Comments regarding the impact of this rulemaking on OTC first aid antibiotic drug products should be accompanied by appropriate documentation.

The agency has determined under 21 CFR 25.24(c)(6) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Interested persons may, on or before July 10, 1990, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Three copies of all comments are to be submitted except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document and may be accompanied by a supporting memorandum or brief. Comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Interested persons may, on or before June 11, 1990, submit to the Dockets Management Branch a request for an informal conference on the proposed change in § 448.513e(a)(1). The participants in an informal conference, if one is held, will have until July 10, 1990, or 30 days after the date of the conference, whichever is later, to submit their comments.

List of Subjects in

21 CFR Part 333

First aid antibiotic drug products, Labeling, Over-the-counter drugs.

21 CFR Part 448

Antibiotics.

Therefore, under the Federal Food, Drug, and Cosmetic Act and the Administrative Procedure Act, it is proposed that subchapter D of chapter I of title 21 of the Code of Federal Regulations be amended in parts 333 and 448 as follows:

PART 333—TOPICAL ANTIMICROBIAL DRUG PRODUCTS FOR OVER-THE-COUNTER HUMAN USE

1. The authority citation for 21 CFR part 333 continues to read as follows:

Authority: Secs. 201, 501, 502, 503, 505, 510, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 351, 352, 353, 355, 360, 371).

2. Section 333.120 is amended by revising paragraph (a)(7) to read as follows:

§ 333.120 Permitted combinations of active ingredients.

* * * * *

(a) * * *

(7) Bacitracin zinc-polymyxin B sulfate topical aerosol containing, in each gram, 120 units of bacitracin and 2,350 units of polymyxin B in a suitable vehicle, packaged in a pressurized container with suitable inert gases: *Provided*, That it meets the tests and methods of assay in § 448.513e(b) of this chapter.

* * * * *

PART 448—PEPTIDE ANTIBIOTIC DRUGS

3. The authority citation for 21 CFR part 448 continues to read as follows:

Authority: Sec. 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357).

4. Section 448.513e is amended by revising paragraph (a)(1) to read as follows:

§ 448.513e Bacitracin zinc-polymyxin B sulfate topical aerosol.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Bacitracin zinc-polymyxin B sulfate topical aerosol is bacitracin zinc, polymyxin B sulfate in a suitable and harmless vehicle, packaged in a pressurized container with suitable and harmless inert gases. Each gram contains 120 units of bacitracin and 2,350 units of polymyxin B. Its bacitracin content is satisfactory if it is not less than 90 percent and not more than 130 percent of the number of units of bacitracin that it is represented to contain. Its polymyxin B content is satisfactory if it is not less than 90 percent and not more than 130 percent of the number of units of polymyxin B that it is represented to contain. Its moisture content is not more than 0.5 percent. It contains not more than an average of 10 microorganisms per container. The bacitracin zinc used conforms to the standards prescribed by § 448.13(a)(1). The polymyxin B sulfate used conforms to the standards prescribed by § 448.30(a)(1).

* * * * *

Dated: March 27, 1990.

James S. Benson,

Acting Commissioner of Food and Drugs.

[FR Doc. 90–11023 Filed 5–10–90; 8:45 am]

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H.R. 3802/Pub. L. 101-283

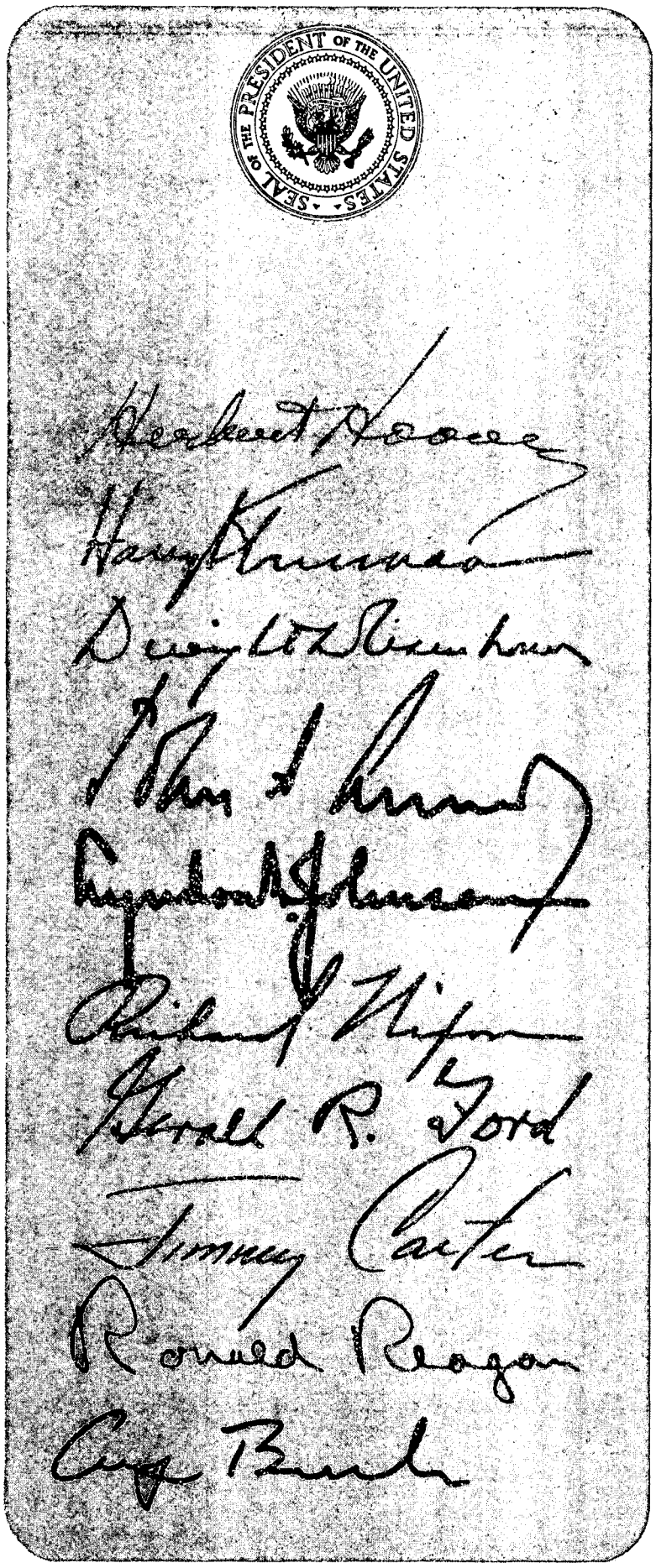
To designate May 1990 as "Asian/Pacific American Heritage Month". (May 9, 1990; 104 Stat. 168; 1 page) Price: $1.00

S.J. Res. 153/Pub. L. 101-284

Designating the third week in May 1990 as "National Tourism Week". (May 9, 1990; 104 Stat. 169; 1 page) Price: $1.00

S.J. Res. 230/Pub. L. 101-285

To designate the period commencing on May 6, 1990, and ending on May 12, 1990, as "National Drinking Water Week". (May 9, 1990; 104 Stat. 170; 1 page) Price: $1.00



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